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## RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as executive orders and attorney general's opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official annual publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order.

The Indiana Register acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Indiana Administrative Code. With few exceptions, an agency may not adopt a rule, i.e., a policy statement having the force of law, without publishing a substantially similar proposed version in the Indiana Register. Although a rule becomes effective without publication in the Indiana Register, an agency must file an adopted and approved rule with the Indiana Legislative Council. The Council publishes these final rules in the Indiana Register.

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## RETENTION SCHEDULE

A person must consult the following publications to find the current rules of state agencies:

- (1) 2003 Indiana Administrative Code (CD-ROM version).
- (2) Volume 26 of the Indiana Register (CD-ROM version).

The Indiana Administrative Code and Indiana Register are distributed in CD-ROM format only. Both are also accessible at [www.in.gov/legislative/ic\\_iac/](http://www.in.gov/legislative/ic_iac/).

The 2001 Edition of the Indiana Administrative Code, the 2002 Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

**JUDICIAL NOTICE AND CITATION FORM**

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule’s validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as “Title 312 of the Indiana Administrative Code,” cite the entire current contents of the third article in title 312 as “312 IAC 3,” cite the entire current contents of the fourth rule in article three as “312 IAC 3-4,” and cite part or all of the current contents of the second section in rule four as “312 IAC 3-4-2.” IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as “25 Ind. Reg. 120 (2002).” A shorter Indiana Register citation form is “25 IR 120.”

**PRINTING CODE**

**This style type** is used to indicate that substantive text is being inserted by amendment into a rule, and **this style type** is used to indicate that substantive text is being eliminated by amendment from a rule. **This style type** is replaced by a single large “X” to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

**REFERENCE TABLES AND INDEX**

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general’s opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

**FILING AND PUBLISHING SCHEDULE**

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month’s Indiana Register according to the schedule below:

**PUBLICATION SCHEDULE**

<b>Closing Dates:</b>	<b>Publication Dates:</b>	<b>Closing Dates:</b>	<b>Publication Dates:</b>
June 10, 2003	July 1, 2003	January 9, 2004	February 1, 2004
July 10, 2003	August 1, 2003	February 10, 2004	March 1, 2004
August 11, 2003	September 1, 2003	March 10, 2004	April 1, 2004
September 10, 2003	October 1, 2003	April 8, 2004	May 1, 2004
October 10, 2003	November 1, 2003	May 10, 2004	June 1, 2004
November 10, 2003	December 1, 2003	June 10, 2004	July 1, 2004
December 10, 2003	January 1, 2004	July 9, 2004	August 1, 2004

Documents will be accepted for filing on any business day from 8:00 a.m. to 4:45 p.m.

**AROC NOTICES:** Under IC 2-5-18-4, the Administrative Rules Oversight Committee is established to oversee the rules of any agency not listed in IC 4-21.5-2-4. As a result, certain notices to the AROC are required and are printed in the Indiana Register.

**CORRECTIONS:** IC 4-22-2-38 authorizes an agency to correct typographical, clerical, or spelling errors in a final rule without initiating a new rulemaking procedure. Correction notices are printed on errata pages in the Indiana Register.

**EFFECTIVE DATE:** IC 4-22-2-36 provides that, unless a later date is specified in the rule, a rule becomes effective thirty (30) days after filing with the Secretary of State.

**EMERGENCY RULES:** IC 4-22-2-37.1 provides summary rulemaking procedures for certain specified categories of rules.

**INCORPORATION BY REFERENCE:** IC 4-22-2-21 requires that a copy of matters that are incorporated by reference into a rule must be filed with the Attorney General, the Governor, and the Secretary of State along with the text of the incorporating final rule.

**NONRULE POLICY DOCUMENTS:** IC 4-22-7-7 requires that any nonrule document that interprets, supplements, or implements a statute and that the issuing agency may use in conducting its external affairs must be filed with the Legislative Services Agency and published in the Indiana Register.

**NOTICE OF INTENT TO ADOPT A RULE:** IC 4-22-2-23 requires an agency to publish a Notice of Intent to Adopt a Rule at least thirty (30) days before publication of the proposed rule.

**PROMULGATION PERIOD:** In order to be effective, the final version of an adopted rule must be approved by the Attorney General and the Governor within one (1) year after the date that the notice of intent is published. The final rule must then be filed with the Secretary of State.

**PUBLIC HEARINGS:** IC 4-22-2-24 requires that the public hearing on a proposed rule be scheduled at least twenty-one (21) days after a notice of the hearing is published in the Indiana Register and in a newspaper of general circulation in Marion County.

**RULES READOPTION:** IC 4-22-2.5 provides that a rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date.

# State Agencies

## ALPHABETICAL LIST

AGENCY	TITLE NUMBER	AGENCY	TITLE NUMBER
Accountancy, Indiana Board of	872	†Industrial Board of Indiana	630
Accounts, State Board of	20	Insurance, Department of	760
Adjutant General	270	Labor, Department of	610
Administration, Indiana Department of	25	Land Surveyors, State Board of Registration for	865
†Administrative Building Council of Indiana	660	Law Enforcement Training Board	250
†Aeronautics Commission of Indiana	110	Library and Historical Board, Indiana	590
†Aging and Community Services, Department on	450	Library Certification Board	595
Agricultural Development Corporation, Indiana	770	Local Government Finance, Department of	50
Agricultural Experiment Station	350	Lottery Commission, State	65
†Agriculture, Commissioner of	340	Medical and Nursing Distribution Loan Fund Board of Trustees, Indiana	580
†Air Pollution Control Board	325.1	Medical Licensing Board of Indiana	844
Air Pollution Control Board	326	Mental Health and Addiction, Division of	440
†Air Pollution Control Board of the State of Indiana	325	Meridian Street Preservation Commission	925
Alcohol and Tobacco Commission	905	Motor Vehicles, Bureau of	140
Amusement Device Safety Board, Regulated	685	Natural Resources, Department of	310
Animal Health, Indiana State Board of	345	Natural Resources Commission	312
Architects and Landscape Architects, Board of Registration for	804	Nursing, Indiana State Board of	848
Athletic Trainers Board, Indiana	898	Occupational Safety Standards Commission	620
Attorney General for the State, Office of	10	Optometric Legend Drug Prescription Advisory Committee, Indiana	857
Auctioneer Commission, Indiana	812	Optometry Board, Indiana	852
Barber Examiners, Board of	816	Organic Peer Review Panel, Indiana	375
Boiler and Pressure Vessel Rules Board	680	Parole Board	220
Boxing Commission, State	808	†Personnel Board, State	30
Budget Agency	85	Personnel Department, State	31
Chemist of the State of Indiana, State	355	Pesticide Review Board, Indiana	357
Children's Health Insurance Program, Office of the	407	Pharmacy, Indiana Board of	856
Chiropractic Examiners, Board of	846	Plumbing Commission, Indiana	860
Civil Rights Commission	910	Podiatric Medicine, Board of	845
†Clemency Commission, Indiana	230	Police Department, State	240
Commerce, Department of	55	Political Subdivision Risk Management Commission, Indiana	762
Community Residential Facilities Council	431	Port Commission, Indiana	130
Consumer Protection Division of the Office of the Attorney General	11	Private Detectives Licensing Board	862
Controlled Substances Advisory Committee	858	Professional Standards Board	515
Coroners Training Board	207	Proprietary Education, Indiana Commission on	570
Correction, Department of	210	Psychology Board, State	868
Cosmetology Examiners, State Board of	820	Public Access Counselor, Office of the	62
Creamery Examining Board	365	Public Employees' Retirement Fund, Board of Trustees of the	35
Criminal Justice Institute, Indiana	205	Public Records, Oversight Committee on	60
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Developmental Disabilities Residential Facilities Council	430	Real Estate Commission, Indiana	876
Dietitians Certification Board, Indiana	830	Reciprocity Commission of Indiana	145
Disability, Aging, and Rehabilitative Services, Division of	460	Revenue, Department of State	45
Disaster Relief Fund, State	290	Safety Review, Board of	615
†Education, Commission on General	510	School Bus Committee, State	575
Education, Indiana State Board of	511	Secretary of State	75
Education Employment Relations Board, Indiana	560	Securities Division	710
Education Savings Authority, Indiana	540	Seed Commissioner, State	360
Egg Board, State	370	Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board	839
†Election Board, State	15	†Soil and Water Conservation Committee, State	311
Election Commission, Indiana	18	Soil Scientists, Indiana Board of Registration for	307
†Elevator Safety Board	670	†Solid Waste Management Board	320.1
Emergency Medical Services Commission, Indiana	836	Solid Waste Management Board	329
Employees' Appeals Commission, State	33	Speech-Language Pathology and Audiology Board	880
†Employment and Training Services, Department of	645	Standardbred Board of Regulations, Indiana	341
Engineers, State Board of Registration for Professional	864	†Stream Pollution Control Board of the State of Indiana	330
Enterprise Zone Board	58	Student Assistance Commission, State	585
Environmental Adjudication, Office of	315	Tax Review, Indiana Board of	52
Environmental Health Specialists, Board of	896	†Teacher Training and Licensing, Commission on	530
†Environmental Management Board, Indiana	320	Teachers' Retirement Fund, Board of Trustees of the Indiana State	550
Ethics Commission, State	40	Television and Radio Service Examiners, Board of	884
Fair Commission, State	80	†Textbook Adoptions, Commission on	520
Family and Children, Division of	470	Toxicology, State Department of	260
Family and Social Services, Office of the Secretary of	405	†Traffic Safety, Office of	150
Financial Institutions, Department of	750	†Transportation, Department of	100
Fire Marshal, State	650	Transportation, Indiana Department of	105
Fire Prevention and Building Safety Commission	675	Transportation Finance Authority, Indiana	135
Firefighting Personnel Standards and Education, Board of	655	Underground Storage Tank Financial Assurance Board	328
Forensic Sciences, Commission on	415	†Unemployment Insurance Board, Indiana	640
Funeral and Cemetery Service, State Board of	832	Utility Regulatory Commission, Indiana	170
Gaming Commission, Indiana	68	†Vehicle Inspection, Department of	160
Geologists, Indiana Board of Licensure for Professional	305	Veterans' Affairs Commission	915
Grain Buyers and Warehouse Licensing Agency, Indiana	824	Veterinary Medical Examiners, Indiana Board of	888
Grain Indemnity Corporation, Indiana	825	Violent Crime Compensation Division	480
Hazardous Waste Facility Site Approval Authority, Indiana	323	†Vocational and Technical Education, Indiana Commission on	572
Health, Indiana State Department of	410	†Wage Adjustment Board	635
Health Facilities Council, Indiana	412	War Memorials Commission, Indiana	920
Health Facility Administrators, Indiana State Board of	840	†Watch Repairing, Indiana State Board of Examiners in	892
†Highways, Department of	120	Water Pollution Control Board	327
†Horse Racing Commission, Indiana	70	†Water Pollution Control Board	330.1
Horse Racing Commission, Indiana	71	Workforce Development, Department of	646
Housing Finance Authority, Indiana	930	Worker's Compensation Board of Indiana	631
Human Service Programs, Interdepartmental Board for the Coordination of	490		

†Agency's rules are entirely repealed, transferred, or otherwise voided.



# Final Rules

## TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

LSA Document #02-150(F)

### DIGEST

Adds 25 IAC 5 concerning minority and women's business enterprises. Repeals 25 IAC 2-19 and 25 IAC 2-20. Effective 30 days after filing with the secretary of state.

**25 IAC 2-19**  
**25 IAC 2-20**  
**25 IAC 5**

SECTION 1. 25 IAC 5 IS ADDED TO READ AS FOLLOWS:

### ARTICLE 5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

#### Rule 1. Scope of Activities

#### 25 IAC 5-1-1 Duties of minority and women's business enterprises division

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13-16.5-2; IC 4-13.6; IC 5-22

Sec. 1. The duties of the minority and women's business enterprises division, hereinafter referred to as the "division", shall be as defined in IC 4-13-16.5-2(f). (*Indiana Department of Administration; 25 IAC 5-1-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3296*)

#### 25 IAC 5-1-2 Duties of the deputy commissioner, minority and women's business enterprises

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13-16.5-3; IC 4-13.5-1; IC 4-13.6; IC 4-13-16.5-3; IC 5-22

Sec. 2. The duties of the deputy commissioner of the division shall be as defined in IC 4-13-16.5-3. (*Indiana Department of Administration; 25 IAC 5-1-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3296*)

#### 25 IAC 5-1-3 Policy statement

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) It is the policy of the state to provide an equal opportunity for existing and operating minority business enterprises and women's business enterprises to receive and participate in the state's procurement and contracting process. The department shall act on behalf of the state to actively promote, monitor, and enforce its MBE/WBE program.

(b) The deputy commissioner of the department, through the minority and women's business enterprises section of

the department, and in concert with the governor's commission on minority and women's business enterprises, shall be the final authority on all matters pertaining to the maintenance and administration of the MBE/WBE program and compliance thereto. (*Indiana Department of Administration; 25 IAC 5-1-3; filed May 30, 2003, 11:00 a.m.: 26 IR 3296*)

### Rule 2. Definitions

#### 25 IAC 5-2-1 Definitions

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1-2; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 4-33-14; IC 5-22

Sec. 1. (a) The following definitions apply throughout this article:

(1) "Application for MBE/WBE program waiver" or "waiver application" means the document(s) submitted by a prime contractor to the state requesting the contractor's exemption from the contract goal and stating the reasons why the contractor requires the waiver.

(2) "Broker" means a business entity serving as an intermediary who negotiates contracts of purchase and sale, without assuming any risk of loss.

(3) "Commission" means the governor's commission on minority and women's business enterprises.

(4) "Commissioner" means the commissioner of the department of administration defined at IC 4-13-1-2.

(5) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

(6) "Contract goal" means a targeted amount of participation as measured by the desired percentage of involvement by minority and women's business enterprises.

(7) "Contractor" means a person or business entity that contracts with a state agency to provide goods or services.

(8) "Department" means the Indiana department of administration.

(9) "Deputy commissioner" means the deputy commissioner for minority and women's business enterprises of the department as set forth in IC 4-13-16.5-1.

(10) "M/WBE compliance review committee" means the committee that is responsible for the appeal of specific contract issues. The committee consists of:

(A) the chairman of the governor's commission on minority and women's business enterprises;

(B) the general counsel of the department; and

(C) the director of the public works or procurement division of the department;

whichever is appropriate, or their respective designees.

(11) "MBE/WBE program waiver" or "waiver" means the document supplied by the state to the prime contractor that approves the application for MBE/WBE program waiver.

(12) "MBE/WBE subcontractor plan" or "plan" means the document supplied by prime contractors to the state

(usually required at the time of most bid submittals), which indicates the means whereby the minority or women's business participation will be attained.

(13) "Minority business enterprise" or "MBE" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (A) United States citizens; and
- (B) members of a minority group.

(14) "Minority group" means the following:

- (A) Blacks.
- (B) American Indians.
- (C) Hispanics.
- (D) Asian Americans.
- (E) Other similar minority groups as defined by 13 CFR 124.103.

(15) "Offeror" means any business entity that makes an offer to enter into a binding contract for the provision of materials or services to a state agency.

(16) "Owned and controlled" means having:

- (A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
- (B) control over the management and active in the day-to-day operations of the business; and
- (C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(17) "Program" means the minority and women's business enterprises program as administered by the department.

(18) "Qualifying member" means, for MBE goals, any member of a minority group and, for WBE goals, a woman.

(19) "State agency" means any of the following:

- (A) An authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative department of state government.
- (B) An entity established by the general assembly as a body corporate and politic.
- (C) A state educational institution.

The term does not include the state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises. The term does not include the Indiana gaming commission to the extent the subject matter of these rules conflict [*sic.*, *conflicts*] with or are [*sic.*, *is*] otherwise covered by IC 4-33-14, et seq.

(20) "Subcontractor" or "second tier contractor" means any person entering into a contract with a prime vendor to directly furnish services or supplies toward the contract.

(21) "Supplier" or "distributor" means any business entity supplying materials, but no significant on-site labor is contributed in furtherance of the contract or to a vendor.

(22) "Vendor" means any person or business entity that

has entered into a binding contract for the provision of materials or services to a state agency.

(23) "Women's business enterprise" or "WBE" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (A) United States citizens; and
- (B) whose gender is female.

(b) A reference to a federal statute or regulation is a reference to the statute or regulation in effect January 1, 2001.

(c) Notwithstanding this section, with reference to business certification status as a broker or supplier, historic purchasing practices, standards for the industry, and risk of loss may be considered. (*Indiana Department of Administration; 25 IAC 5-2-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3296*)

### Rule 3. Certification Standards

#### 25 IAC 5-3-1 Certification policy

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 1.** The department will act on behalf of the state to actively promote, monitor, and enforce the standards for certification of minority business enterprises and women's business enterprises. (*Indiana Department of Administration; 25 IAC 5-3-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3297*)

#### 25 IAC 5-3-2 Application for certification as an MBE or a WBE

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-14-3-4; IC 5-22

**Sec. 2. (a)** The enterprise seeking certification as an MBE or a WBE shall submit its application on the form or forms approved by the department, accompanied by all requested documentation.

(b) An enterprise seeking certification as an MBE or a WBE has the burden of demonstrating that it meets the requirements of this rule concerning ownership and control by qualifying members.

(c) The individual signing the application for certification shall be a qualifying member. The qualifying member or members are those whose participation is relied upon to meet the ownership and control requirements, and each shall certify as to his or her status as a qualifying member. The qualifying member signing the application for certification for not-for-profit enterprise must be the highest-ranking official working in the enterprise on a day-to-day basis.

(d) An enterprises [*sic.*] seeking MBE or WBE certifica-

## Final Rules

tion shall cooperate fully with the department's requests for information and documentation relevant to the certification process. Failure to cooperate fully may result in denial of MBE or WBE certification.

(e) An enterprise seeking MBE or WBE certification has an affirmative obligation to disclose all material and relevant information affecting that's [*sic.*, *that*] enterprise's eligibility for certification. Any material misrepresentation or omission may be grounds for denial of certification or may result in the issuance of an order to show cause why such certification should not be revoked.

(f) All documents submitted in connection with an application for certification as an MBE or WBE are subject to the Indiana Access to Public Records Act, IC 5-14-3. The department will maintain as confidential any tax returns, other financial information, and trade secret information as authorized under Indiana Code section 5-14-3-4(a).

(g) An applicant (an individual who is a qualifying member) can submit a maximum of two (2) applications per year. At any time, only one (1) application can be pending.

(h) If an enterprise withdraws its application prior to completion of the review process, it may reapply at any time, but the reapplication will be treated as a new application and considered in the order in which it is received.

(i) An enterprises [*sic.*] certified as an MBE or WBE as of the date these rule [*sic.*] become effective shall retain its certification until it expires, unless revoked as provided in this article.

(j) If an enterprise has an application for certification as an MBE or a WBE with the department at the date these rules become effective, the department will make its certification determination based on the rules that were in effect at the time the application was received. (*Indiana Department of Administration; 25 IAC 5-3-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3297*)

### 25 IAC 5-3-3 Certification standards regarding qualifying membership determination

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) In determining whether an individual asserting that he or she is a member of a minority group (for MBE certification) or a woman (for WBE certification), the department shall consider all the facts in the record, viewed as a whole.

(b) The department will rebuttably presume that a citizen of the United States who is a woman or a member of a minority group is a qualifying member.

(c) Being born in a country does not, by itself, suffice to make an individual a member of a minority group.

(d) In a [*sic.*] making its determination regarding qualifying membership, the department may consider whether the person has historically held himself or herself out to be a qualifying member and whether the person is regarded as a qualifying member by the relevant community.

(e) The department may request such additional documentation as it may reasonably need to support an individual's claim that he or she is a member of a minority group or a woman. (*Indiana Department of Administration; 25 IAC 5-3-3; filed May 30, 2003, 11:00 a.m.: 26 IR 3298*)

### 25 IAC 5-3-4 Ownership determinations

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. (a) In determining whether a qualifying member owns an enterprise, the department shall consider all the facts in the record, viewed as a whole.

(b) To be an eligible MBE or WBE, an enterprise must be at least fifty-one percent (51%) owned by qualifying members. In the case of a:

- (1) corporation, qualifying members must own at least fifty-one percent (51%) of each class of voting stock outstanding and fifty-one percent (51%) of the aggregate of all stock outstanding;
- (2) partnership, fifty-one percent (51%) of each class of partnership interest must be owned by qualifying members, and such ownership must be reflected in the partnership agreement; and
- (3) limited liability company, at least fifty-one percent (51%) of each class of membership interest must be owned by qualifying members.

(c) An enterprise's ownership by qualifying members must be real, substantial, and continuing, going beyond any pro forma ownership reflected in ownership documents. The qualifying members must enjoy the customary incidents of ownership and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.

(d) All securities used to evidence the ownership interest of a qualifying member shall be held directly by the qualifying member. Except as provided in this subsection, no securities or assets held in trust, or by any guardian for a minor, will be considered as held by a qualifying member in determining the ownership of an enterprise. However, securities or assets held in trust will be regarded as held by a qualifying member for the purpose of determining ownership of the enterprise if either of the following apply:

(1) The beneficial owner of securities or assets held in trust is a qualifying member, and the trustee is the same or another such individual.

(2) The beneficial owner of a trust is a qualifying member who, rather than the trustee, exercises effective control over the management, policymaking, and daily operational activities of the enterprise. Assets held in a revocable living trust may be counted only if the same qualifying member is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the qualifying member to acquire an ownership interest must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the enterprise or an owner who is not a qualifying member, or mere participation in an enterprise's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of business do not render an enterprise ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a qualifying member's contribution to acquire ownership:

- (1) The owner's expertise must be as follows:
  - (A) In a specialized field.
  - (B) Of outstanding quality.
  - (C) In areas critical to the enterprise's operations.
  - (D) Indispensable to the enterprise's potential success.
  - (E) Specific to the type of work the enterprise performs.
  - (F) Documented in the records of the enterprise. These records must clearly show the contribution of expertise and its value to the enterprise.
- (2) The individual whose expertise is relied upon must have a significant financial investment in the enterprise.

(g) In evaluating enterprise ownership, the department will deem the qualifying member to hold all interests in a business or other assets obtained by the qualifying member:

- (1) as the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or
- (2) through inheritance, or otherwise because of the death of the former owner.

(h) In evaluating enterprise ownership, the department will disregard all interests in a business or other assets obtained by a qualifying member as the result of a gift or transfer without adequate consideration from any nonqualifying individual or non-MBE or WBE enterprise that is:

- (A) involved in the same enterprise, or an affiliate of the enterprise, for which MBE or WBE certification is sought; or

(B) involved in the same or a substantially similar line of business; or

(C) engaged in an ongoing business relationship with the enterprise, or an affiliate of the enterprise, for which MBE or WBE certification is sought.

(2) To overcome this presumption and permit the interests or assets to be counted, the qualifying member must demonstrate that:

(A) the gift or transfer to the qualifying member was made for reasons other than obtaining certification as a MBE or WBE; and

(B) the qualifying member actually controls the management, policy, and operations of the enterprise, notwithstanding the continuing participation of a nonqualifying individual who made the gift or transfer.

(i) The department will apply the following rules in situations in which marital assets form a basis for ownership of an enterprise:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one (1) spouse, the ownership interest in the enterprise must be deemed to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the enterprise is domiciled. The department may not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the by qualifying member of the applicant enterprise.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the enterprise must be included as part of the enterprise's application for MBE or WBE certification.

(3) The department must take into consideration financial implications of the transfer/renouncement. For example, if the renouncement is for rights to a home, the applicant shall provide documentation of the transfer with mortgage holder.

(j) The department will consider the following factors in determining the ownership of an enterprise; however, it will not regard a contribution of capital as failing to be real and substantial, or find an enterprise ineligible, solely because:

(1) A qualifying member acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in subsection (h).

(2) There is a provision for the cosignature of a spouse who is not a qualifying member on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents.

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(3) Ownership of the enterprise or its assets is transferred for adequate consideration from a spouse who is not a qualifying member to a spouse who is such an individual. In this case, the department will scrutinize the ownership and control of an enterprise to ensure that it is owned and controlled, in substance as well as in form, by a qualifying member.

(k) Except as provided in this subsection, an enterprise that is not owned by qualifying members, but instead is owned by another enterprise, even an MBE or WBE enterprise, cannot be an eligible MBE or WBE.

(1) If qualifying members own and control an enterprise through a parent or holding company, established for tax, capitalization, or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, the department may certify the subsidiary if it otherwise meets all requirements of this subdivision. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) The department may certify such a subsidiary only if there is cumulatively fifty-one percent (51%) ownership of the subsidiary by qualifying members. The following examples illustrate how this cumulative ownership provision works:

(A) Qualifying members own one hundred percent (100%) of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified if it meets all other requirements.

(B) Qualifying members own one hundred percent (100%) of a holding company, which owns fifty-one percent (51%) of a subsidiary. The subsidiary may be certified if all other requirements are met.

(C) Qualifying members own eighty percent (80%) of a holding company, which in turn owns seventy percent (70%) of a subsidiary. In this case, the cumulative ownership of the subsidiary by qualifying members is fifty-six percent (56%) (eighty percent (80%) of the seventy percent (70%)). This is more than fifty-one percent (51%), so the department may certify the subsidiary if all other requirements are met.

(D) Same as examples in clause (B) or (C), but someone other than the qualifying members of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by qualifying members through the holding or parent company, the department cannot certify it because it fails to meet control requirements.

(E) Qualifying members own sixty percent (60%) of a holding company, which in turn owns fifty-one percent (51%) of a subsidiary. In this case, the cumulative ownership of the subsidiary by qualifying members is about thirty-one percent (31%). This is less than fifty-one percent (51%), so the department cannot certify the subsidiary.

(l) Recognition of an enterprise as a separate nonconsolidated entity for tax or corporate purposes is not necessarily sufficient to demonstrate that an enterprise is an independent business, owned and controlled by qualifying members.

(m) An enterprise that is owned by an Indian tribe, Alaska native corporation, or native Hawaiian organization as an entity, rather than by Indians, Alaska natives, or native Hawaiians as individuals, may be eligible for certification. Such an enterprise must be controlled by qualifying members, as provided in this article and 13 CFR 124.103. (*Indiana Department of Administration, 25 IAC 5-3-4; filed May 30, 2003, 11:00 a.m.: 26 IR 3298*)

### 25 IAC 5-3-5 Control determinations

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In determining whether qualifying members control an enterprise, the department will consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a MBE or WBE. An independent business is one the viability of which does not depend on its relationship with another enterprise or enterprises.

(1) In determining whether a potential MBE or WBE is an independent business, the department will scrutinize relationships with non-MBE or non-WBE enterprises in such areas as personnel, facilities, equipment, financial, bonding support, and other resources.

(2) The department must consider whether present or recent employer/employee relationships between the qualifying member of the potential MBE or WBE and non-MBE or WBE or persons associated with non-MBE or WBEs compromise the independence of the potential MBE or WBE.

(3) The department must examine the enterprise's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential MBE or WBE enterprise.

(4) In considering factors related to the independence of a potential MBE or WBE, the department must consider the consistency of relationships between the potential MBE or WBE and non-MBE or WBE with customary industry practice.

(c) An MBE or WBE must not be subject to any formal or informal restrictions that limit the customary discretion of the qualifying members. There can be no restrictions through corporate charter provisions, bylaw provisions, contracts, or any other formal or informal devices, including, but not limited to, cumulative voting rights, voting powers attached to different classes of stock, employment

contracts, requirements for concurrence by nonqualifying partners, conditions precedent or subsequent, executory agreements, voting trusts, or restrictions on or assignments of voting rights, that prevent the qualifying members, without the cooperation or vote of any nonqualifying individual, from making any business decision of the enterprise. This subsection does not preclude a spousal cosignature on documents as provided for in this section.

(d) The qualifying members must possess the power to direct or cause the direction of the management and policies of the enterprise and to make day-to-day as well as long term decisions on matters of management, policy, and operations.

(1) A qualifying member must hold the highest officer position in the enterprise, for example, chief executive officer or president.

(2) In a corporation, qualifying members must control the board of directors.

(3) In a partnership, one (1) or more qualifying members must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not qualifying members may be involved in an MBE or WBE as owners, managers, employees, stockholders, officers, and directors. Such individuals must not, however, possess or exercise the power to control the enterprise or be disproportionately responsible for its the *[sic.]* operation.

(f) The qualifying members of the enterprise may delegate various areas of the management, policymaking, or daily operations to other participants in the enterprise, regardless of whether these participants are qualifying members. Such delegations of authority must be revocable, and the qualifying members must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the qualifying members in the enterprise's overall affairs must be such that the department can reasonably conclude that the qualifying members actually exercise control over the enterprise's operations, management, and policy.

(g) The qualifying members must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the enterprise is engaged and the enterprise's operations. The qualifying members are not required to have experience or expertise in every critical area of the enterprise's operations, or to have greater experience or expertise in a given field than managers or key employees. The qualifying members must have the ability to intelligently and critically evaluate information presented by other participants in the enterprise's activities and to use this information to make independent decisions concerning the enterprise's daily

operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the enterprise is insufficient to demonstrate control.

(h) If federal, state, or local law, statute, ordinance, or regulation requires an individual to have a particular license or other credential in order to own or control a certain type of enterprise, then the qualifying members who own and control a potential MBE or WBE of that type must possess the required license or credential. If federal, state, or local law does not require such a person to have such a license or credential to own or control an enterprise, the department may not deny certification solely on the ground that the person lacks the license or credential. However, the department may take into account the absence of the license or credential as a factor in determining whether the qualifying members actually control the enterprise.

(i) The department may consider differences in remuneration between the qualifying members and other participants in the enterprise in determining whether to certify an enterprise as a MBE or WBE. Such consideration shall be in the context of the duties of the persons involved, customary industry practice, the enterprise's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the enterprise.

(1) The department may determine that an enterprise is controlled by a qualifying member although that person's remuneration is lower than that of some other participants in the enterprise.

(2) In a case where a nonqualifying individual formerly controlled the enterprise, and a qualifying member now controls it, the department may consider a difference between the remuneration of the former and current controller of the enterprise as a factor in determining who controls the enterprise, particularly when the nonqualifying individual remains involved with the enterprise and continues to receive greater compensation than the qualifying member.

(j) In order to be deemed as controlling an enterprise, a qualifying member cannot engage in outside employment or other business interests that conflict with the management of the enterprise or prevent the individual from devoting sufficient time and attention to the affairs of the enterprise to control its activities. For example, absentee ownership of a business and part-time work in a full-time enterprise are not viewed as constituting control. However, an individual will be viewed as controlling a part-time business that operates only on evenings or weekends, or both, if the individual controls it all the time it is operating.

(k) The following are requirements concerning control of

an enterprise run by a family:

(1) A qualifying member may control an enterprise even though one (1) or more of the individual's immediate family members (who themselves are not qualifying members) participate in the enterprise as a manager, employee, owner, or in another capacity. Except as otherwise provided in this subsection, the department must make a judgment about the control the qualifying member exercises vis-à-vis other persons involved in the business as it does in other situations, without regard to whether or not the other persons are immediate family members.

(2) If the department cannot determine whether a qualifying member, as distinct from the family as a whole, controls the enterprise, then the qualifying member has failed to carry his or her burden of proof concerning control, even though he or she may participate significantly in the enterprise's activities.

(l) Where an enterprise was formerly owned or controlled, or both, by a nonqualifying individual (whether or not an immediate family member), ownership or control, or both, was transferred to a qualifying member, and the nonqualifying individual remains involved with the enterprise in any capacity, the qualifying member now owning the enterprise must demonstrate that:

(1) The transfer of ownership or control, or both, to the qualifying member was made for reasons other than obtaining certification as an MBE or WBE.

(2) The qualifying member actually controls the management, policy, and operations of the enterprise, notwithstanding the continuing participation of a nonqualifying individual.

(m) In determining whether an enterprise is controlled by qualifying members, the department may consider whether the enterprise owns equipment necessary to perform its work. However, the department may not determine that an enterprise is not controlled by qualifying members solely because the enterprise leases, rather than owns, such equipment, where leasing equipment is a customary industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the enterprise.

(n) The department must grant certification to an enterprise only for specific types of work in which the qualifying members have the ability to control the enterprise. To become certified in an additional type of work, the enterprise must have been certified for at least six (6) months in its current type of work, or certified by the department for at least one (1) year, and demonstrate that its qualifying members are able to control the enterprise with respect to the newly-requested type of work. The department may not, in this situation, require that the enterprise be recertified or

submit a new application for certification, but it must verify the qualifying member's control of the enterprise in the additional type of work. However, the department must apply the same standards to additional types of work that were applied originally. Certification in these additional work areas are not guaranteed simply because the enterprise is currently certified. Further, there is a presumption against having more than three (3) industry variations in the same enterprise.

(o) An enterprise operating under a franchise or license agreement may be certified if it meets the standards in this part and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, the department will generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be deemed controlled by qualified members, any nonqualifying partners must not have the power, without the specific written concurrence of the qualifying member, to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The qualifying members controlling an enterprise may use an employee leasing company. The use of such a company does not preclude the qualifying members from controlling the enterprise if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the leased employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

(r) There is a presumption against the ability to operate and control more than three (3) enterprises within the context of this article. (*Indiana Department of Administration; 25 IAC 5-3-5; filed May 30, 2003, 11:00 a.m.: 26 IR 3300*)

### 25 IAC 5-3-6 Other factors considered for certification

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6-4; IC 5-22

Sec. 6. (a) The department will consider whether an enterprise performs a commercially useful function in making decisions about whether to certify an enterprise as a MBE or WBE. Determination that an enterprise performs

a commercially useful function will be made based on the following considerations:

- (1) An MBE or WBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the MBE or WBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an MBE or WBE is performing a commercially useful function, one must evaluate the amount of work subcontracted, industry practices, whether the amount the enterprise is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, and other relevant factors.
- (2) An MBE or WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MBE or WBE participation. In determining whether an MBE or WBE is such an extra participant, one must examine similar transactions, particularly those in which MBEs or WBEs do not participate.
- (3) In the case of construction contracts, if an MBE or WBE does not perform or exercise responsibility for at least the agency's requisite percent of the total cost of its contract with its own work force, or the MBE or WBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is presumed that the enterprise is not performing a commercially useful function.

(b) The department may consider, in making certification decisions, whether an enterprise has exhibited a pattern of conduct indicating prior involvement in attempts to evade or subvert the intent or requirements of the MBE or WBE program.

(c) The department shall evaluate the eligibility of an enterprise on the basis of present circumstances. It will not refuse to certify an enterprise based solely on historical information indicating a lack of ownership or control by qualifying members in the past, if the enterprise currently meets the ownership and control standards of this part.

(d) The department will not require an MBE or WBE enterprise to be prequalified (or certified under the division of public works) as a condition for certification. Standards for prequalification and certification are made pursuant to 105 IAC 11 and IC 4-13.6-4, respectively. However, if the prequalification (certification) is industry/trade-specific, the department will require all enterprises that participate in

its contracts and subcontracts related to that area to be prequalified.

(e) The applicant for MBE or WBE certification must possess reasonable prospects for success in competing in the public sector. The department will deem an enterprise that has been in business for two (2) full years immediately prior to its date of application as possessing reasonable prospects for success in competing in the public sector.

- (1) Income tax returns for each of the two (2) previous tax years must show operating revenues in the selected types of work for which the applicant is seeking certification.
- (2) The department may waive the two (2) years in business requirement if each of the following conditions is met:
  - (A) The qualifying member or members have demonstrated management experience.
  - (B) The qualifying member or members have demonstrated technical experience to carry out type of business for which certification is sought.
  - (C) The qualifying member has a record of successful performance on contracts from governmental or nongovernmental sources in its primary area of certification.
  - (D) The applicant for certification as an MBE or a WBE has demonstrated, or can demonstrate, its ability to timely obtain the personnel, facilities, equipment, and any other requirements needed to perform contracts.

*(Indiana Department of Administration; 25 IAC 5-3-6; filed May 30, 2003, 11:00 a.m.: 26 IR 3302)*

**25 IAC 5-3-7 Review by the department of applications for certification as an MBE or WBE**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 7. (a) Certification process requirements are as follows:**

- (1) At a minimum, the department will take the following steps in determining whether an enterprise meets the standards for certification as an MBE or WBE:
  - (A) On-site visits. The department will:
    - (i) Make on-site visits during normal business hours to company headquarters with little or no advance notice in its efforts to make an accurate determination of the ownership and control of an enterprise. The department may interview the principal officers of the enterprise and review their resumes and work histories. The department may also perform an on-site visit to job sites if there are such sites on which the enterprise is working at the time of the eligibility investigation in its jurisdiction or local area.
    - (ii) With regards to out-of-state enterprises, the department may rely upon the site visit report of other recognized governmental entities with respect to an enterprise applying for certification.

(B) If the enterprise is a corporation, analyze the ownership of stock in the enterprise.

(C) Analyze the bonding and financial capacity of the enterprise.

(D) Determine the work history of the enterprise, including contracts it has received and work it has completed.

(E) Obtain a statement from the enterprise of the type of work it prefers to perform as part of the MBE or WBE program and its preferred locations for performing the work, if any.

(F) Obtain or compile a list of the equipment owned by or available to the enterprise and the licenses the enterprise and its key personnel possess to perform the work it seeks to do as part of the program.

(G) Require potential enterprises to complete and submit an appropriate application form.

(2) The applicant will be required to certify the completeness, accuracy, and truthfulness of the information submitted by way of notarized affidavit.

(3) The department must review all information on the application form prior to making a decision about the eligibility of the enterprise. If the department determines that the form clearly indicates the applicant is ineligible for certification, it may waive the on-site requirement.

(4) The department may request, at any time that it deems necessary, further information or clarification of any matter relating to an enterprise's qualification as an MBE or a WBE.

(5) The department must conduct preliminary audits of accounting records, project files, and any legal documents that may be pertinent or relevant to the certification of an enterprise as an MBE or a WBE.

(6) The department will make recommendations to the appropriate agencies and departments based on the totality of its investigation, including document reviews, interviews, site visits, and audits regarding the enterprise seeking certification as an MBE or a WBE.

(7) The department will make recommendations to the appropriate agencies and departments for further investigation if misrepresentation is suspected.

(8) The department will make a determination on applications for certification within ninety (90) of the completion of its on-site investigation or, in the case of an out-of-state enterprise, within ninety (90) days of the receipt of its home state investigation report. The department may extend this time period once, for no more than an additional sixty (60) days, upon written notice to the enterprise, explaining fully and specifically the reasons for the extension. Failure to make a determination by the applicable deadline under this paragraph may be deemed, by the applicant, a constructive denial of the application, and the basis on which the enterprise may petition for review under 25 IAC 5-4-2.

(b) Applications from MBE or WBE enterprises domi-

ciled outside of Indiana require the following, in addition to the items in this article:

(1) The enterprise must be qualified and in good standing with the state of its organization.

(2) The home state shall provide the on-site interview that was conducted in association with the certification. Certification of out-of-state applicants by the department is conditional to the out-of-state applicant meeting the standards of certification set forth in this article. The department reserves the right to grant or deny certification to an MBE or WBE with current, in-place certification status with other governmental agencies and departments with recognized certification authority.

(c) An applicant for certification as an MBE or a WBE may notify the department that it is seeking similar certification from another agency or certifying entity and request that the department provide a copy of its application documentation and report of site visit to such agency or entity. The notice may be on a form prescribed by the department. The department will respond to two (2) requests a year at no charge to the applicant. Additional requests will be honored only if the applicant pays the department's then-prevailing copying costs and postage. (*Indiana Department of Administration; 25 IAC 5-3-7; filed May 30, 2003, 11:00 a.m.: 26 IR 3303*)

### 25 IAC 5-3-8 Rules affecting an enterprise's responsibility after being certified as an MBE or a WBE

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 8. (a) An enterprise's responsibilities after certification include, but are not necessarily limited to, the responsibilities set forth in this section. Failure to comply with the provisions of this section may result in an order to show cause why MBE or WBE certification should not be revoked.

(b) Each MBE-certified enterprise and each WBE-certified enterprise must notify the department in writing within thirty (30) days of each change affecting its qualifying membership, ownership, or control requirements, and of any other material change to the information provided in the application form.

(1) Changes in contact information must be reported, including address, telephone number, and personnel.

(2) Management responsibility among members of a limited liability company must be reported.

(3) Supporting documentation must be attached describing in detail the nature of such changes.

The notice must take the form of a notarized affidavit.

(c) A certified MBE or WBE enterprise must provide, every year on the anniversary of the date of its certification, a notarized affidavit stating that there have been no

changes to enterprise's qualifying members, ownership, or control requirements, or any other material change to the information provided in its application form, except for changes about which the enterprise has previously notified the department. The affidavit shall specifically affirm that the enterprise continues to meet standards for certification under these rules.

(d) Once the department has certified an MBE or WBE, the enterprise shall remain certified for a period of at three (3) years unless or until its certification has been revoked. The department may not require firms to reapply for certification as a condition of continuing to participate in the program during this three (3) year period unless the factual basis on which the certification was made changes. (*Indiana Department of Administration; 25 IAC 5-3-8; filed May 30, 2003, 11:00 a.m.: 26 IR 3304*)

**Rule 4. Procedures Governing Denial of Application for Certification or Revocation of Certification as an MBE or a WBE**

**25 IAC 5-4-1 Revocation of an enterprise's certification as an MBE or a WBE**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) This section establishes standards for processing a complaint issued to a challenged enterprise concerning the possible revocation of its certification.

(b) Requirements for ineligibility complaints are as follows:

- (1) Any person may file with the department a written complaint alleging that a currently certified enterprise is ineligible and specifying the alleged reasons why the enterprise is ineligible. The department is not required to accept a general allegation that an enterprise is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the enterprise is ineligible and should not continue to be certified.
- (2) The department must review its records concerning the enterprise, any material provided by the enterprise and the complainant, and other relevant information. The department may request additional information from the enterprise or conduct any other investigation deemed necessary.
- (3) If the department determines, based on this review, that there is reasonable cause to believe that the enterprise is ineligible, the department must provide written notice to the enterprise that it proposes to find the enterprise ineligible, setting forth the reasons for the proposed determination. If the department determines that such reasonable cause does not exist, it must notify the complainant and the enterprise in writing of this

determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) If, based on notification by the enterprise of a change in its circumstances or other information that comes to the attention of the department that there is reasonable cause to believe that a currently certified enterprise is ineligible, the department must provide written notice to the enterprise that it proposes to find the enterprise ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(d) Requirements for complaints from other state agencies are as follows:

- (1) If a state agency determines that information in an enterprise's records, or other information available to that agency, provides reasonable cause to believe that a certified enterprise does not meet the eligibility criteria of this subsection, the state agency may request that the department initiate a proceeding to remove the enterprise's certification.
- (2) The state agency must provide the department all relevant documentation or other information.

(e) The department may issue an order requiring an enterprise to show cause why its certification as an MBE or a WBE should not be revoked as provided in subsection (a), (b), or (c). In such case the enterprise shall be entitled to a hearing as set forth in 25 IAC 5-4-2 [section 2 of this rule].

(f) The department must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the department at the time of its certification of the enterprise. It may base such a decision only on one (1) or more of the following:

- (1) Changes in the enterprise's circumstances since the certification of the enterprise by the department that render the enterprise unable to meet the eligibility standards of this rule.
- (2) Information or evidence not available to the department at the time the enterprise was certified.
- (3) Information that was concealed or misrepresented by the enterprise in previous certification actions by a department.
- (4) A change in the certification standards or requirements since the enterprise was certified.
- (5) A documented finding that the department's determination to certify the enterprise was factually erroneous.

(g) During the pendency [*sic., pendency*] of a proceeding to determine if an enterprise's WBE or MBE should be revoked or suspended, the enterprise shall retain its status

until a final order revoking certification is issued by the commission.

(h) When an enterprise's certification as an MBE or a WBE has been revoked and is no longer subject to judicial review, the department will take the following action relative to prime contractors who have relied in good faith upon the certification of the disqualified entity:

(1) When a prime contractor has made a commitment to use the disqualified enterprise, or there has been a commitment to use the enterprise as a prime contractor, but a subcontract or contract has not been executed before the order to show cause provided for in subsection (e) has been issued, the ineligible enterprise does not count toward the contract goal or overall goal. The prime contractor is to meet the contract goal with an eligible enterprise or demonstrate that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the enterprise before the department has issued a notice to show cause, the prime contractor may continue to use the enterprise on the contract and may continue to receive credit toward its goal for the enterprise's work. In this case, or in a case where a prime contract has been awarded to an enterprise that is subsequently decertified, the portion of the decertified enterprise's performance of the contract remaining after the notice of its ineligibility shall not count toward the overall goal, but may count toward the contract goal.

*(Indiana Department of Administration; 25 IAC 5-4-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3305)*

### **25 IAC 5-4-2 Review of determinations by the department regarding certification as an MBE or a WBE**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 4-21.5-3-5; IC 5-22

**Sec. 2. (a) An enterprise:**

(1) whose application for certification as an MBE or as a WBE has been denied; or

(2) to which the department has issued an order to show cause why its MBE or WBE certification should not be revoked;

shall be given notice of such action and shall be entitled to petition for review under the Indiana Administrative Orders and Procedures Act, IC 4-21.5, et seq.

(b) The administrative law judge or judges appointed to hear any matter arising under this rule shall have had no prior involvement in the review or preliminary determination of the matter heard.

(c) The ultimate authority under this article is the commission.

(d) When an enterprise is denied certification, it cannot

reapply for certification for nine (9) months. The time period for reapplication begins to run at the time the enterprise's administrative and judicial remedies are exhausted. *(Indiana Department of Administration; 25 IAC 5-4-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3306)*

### **Rule 5. MBE/WBE Participation in Procurement and Contracting; Prime Contractors**

#### **25 IAC 5-5-1 Policy; procurement and contracting**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.1-3-3; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 1. (a) It is the policy of the state to provide an equal opportunity for minority and women's business enterprises to participate in the state's procurement and contracting processes as prime contractors.**

(b) Pursuant to IC 4-13-1.3-3, the department may delegate its authority to a state agency. *(Indiana Department of Administration; 25 IAC 5-5-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3306)*

#### **25 IAC 5-5-2 Activities to achieve participation**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 2. The department shall perform activities to provide minority and women's business enterprises the opportunity to participate in the state's award of purchases and contracts.** *(Indiana Department of Administration; 25 IAC 5-5-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3306)*

#### **25 IAC 5-5-3 Outreach and assessment**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 3. (a) The department shall perform activities to outreach to minority and women's business enterprises. The department shall assess where and when the programs are most valuable to these enterprises.**

(b) The department shall provide information on qualifications necessary for enterprises to compete for bid opportunities. *(Indiana Department of Administration; 25 IAC 5-5-3; filed May 30, 2003, 11:00 a.m.: 26 IR 3306)*

#### **25 IAC 5-5-4 Promoting MBE/WBE participation as prime contractors**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

**Sec. 4. The department shall provide and promote opportunities for minorities and women to participate in procurement and contracting opportunities as prime vendors.** *(Indiana Department of Administration; 25 IAC 5-5-4; filed May 30, 2003, 11:00 a.m.: 26 IR 3306)*

**25 IAC 5-5-5 Monitoring MBE/WBE participation as prime contractors**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6-4; IC 4-13.6-5; IC 5-22

Sec. 5. (a) In monitoring MBE/WBE participation in prime contract awards, the department shall do the following as it pertains to procurement and contracting at the agency level pursuant to IC 4-13.6-4 and IC 4-13.6-5:

- (1) Establish a standard method to record solicitations of these procurements.
- (2) The agency shall provide the department with such information as the department deems reasonably necessary to carry out the purposes of this rule, including:
  - (A) Information on the contractors contacted, including name, address, telephone number, fax, and e-mail.
  - (B) The contractor's ethnicity and gender.
  - (C) Whether or not the contractor is a small business.
  - (D) Whether or not the contractor is new to the state's procurement process.
  - (E) The contractor's bid amount (or that the contractor chose not to bid).
  - (F) The person completing the form.
  - (G) The personnel responsible for the solicitation.

(b) To monitor MBE/WBE participation in prime contract awards, the department shall do the following as it pertains to contracts other than procurement and contracting at the agency level:

- (1) Monitor the lists of enterprises bidding to develop potential strategies to increase the number of bidders. The form for such recording should include, but not be limited to, the following:
  - (A) Information on the contractors, including name, address, telephone number, fax, and e-mail.
  - (B) The contractor's ethnicity and gender.
  - (C) The reason or reasons the company has chosen not to bid.
- (2) Establish a system to debrief bidders who do not win state contracts. The method of debriefing may include:
  - (A) Feedback to MBE and WBE bidders in general to ensure they are aware of the availability of information regarding bid tabulations.
  - (B) Work with small business assistance organizations to counsel MBE and WBE bidders in general on strengthening future proposals and understanding of state requirements.
- (3) Maintain a list of bidders, consisting of information regarding all enterprises that bid or quote contracts. This list shall be used to compile and track those enterprises that have shown an interest in participating in the state's procurement and contracting processes. The information to be compiled shall include, but may not be limited to, the following:
  - (A) Company name, address, phone number, fax, and e-mail.

- (B) Owner's name, gender, and ethnicity.
- (C) If new to the state bid process, age of enterprise and gross annual receipts.
- (D) For this bid, name of proposed subcontractors proposed, including, for each company, the company's name, owner's name, gender, and ethnicity.

*(Indiana Department of Administration; 25 IAC 5-5-5; filed May 30, 2003, 11:00 a.m.: 26 IR 3307)*

**25 IAC 5-5-6 Reporting MBE and WBE participation as prime contractors**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 6. All state agencies, as defined in IC 4-13-16.5-1, shall report to the department its award of prime contracts to MBEs and WBEs on a quarterly basis. The form of the report shall be in compliance with policies and procedures of the department. *(Indiana Department of Administration; 25 IAC 5-5-6; filed May 30, 2003, 11:00 a.m.: 26 IR 3307)*

**Rule 6. MBE and WBE Participation in Procurement and Contracting; Subcontractors**

**25 IAC 5-6-1 Promoting MBE and WBE participation as subcontractors**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13-1.3-3; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) The department shall provide and promote opportunities for minorities and women to participate in procurement and contracting opportunities as subcontractors.

(b) Pursuant to IC 4-13-1.3-3, the department may delegate its authority to a state agency. *(Indiana Department of Administration; 25 IAC 5-6-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3307)*

**25 IAC 5-6-2 Monitoring MBE and WBE participation as subcontractors**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) In monitoring the participation of MBEs or WBEs as subcontractors, the department shall conduct preproject meetings with all subcontractors and prime contractors. The department shall determine which projects will require a preproject meeting. Items of discussion at the meeting shall include, but may not be limited to, the following:

- (1) Subcontractors will learn when their services are likely to be needed.
- (2) The department will explain the state's prompt payment program.
- (3) The department will provide a review of MBE/WBE program requirements.

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(4) The department will explain the state's nondiscrimination and antidiscrimination laws.

(b) All contract amendments and change order requests must include an explanation of how MBEs and WBEs will be used and the percentage represented above the current contract amount.

(c) Notify appropriate subcontractors when contracts are revised upward through amendments or change orders, or both.

(d) All prime contractors, including MBE and WBE prime contractors, must meet the contract goals through use of subcontractors. MBE and WBE prime contractors will get no credit toward the contract goal for the use of their own workforce. (*Indiana Department of Administration; 25 IAC 5-6-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3307*)

### 25 IAC 5-6-3 Reporting MBE and WBE participation as subcontractors

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) In addition to requirements mentioned in other areas of the part, prime contractors shall be required to report all subcontractor participation, that is, MBE/WBE-certified subcontractors and non-MBE/WBE certified subcontractors. The report shall include, but may not be limited to, the following:

- (1) Company name, address, telephone number, fax, and e-mail.
- (2) Owner's name, gender, and type of qualifying membership.
- (3) Name of contact person employed by the enterprise.
- (4) Work the enterprise will perform and the approximate date when the subcontractors' work will commence (individually).
- (5) Contract amount for services to be performed (individually).

(b) Each state agency, as defined in IC 4-13-16.5-1, shall report to the department its use of MBEs and WBEs as subcontractors on a quarterly basis. The form of the report shall be in compliance with policies and procedures of the department. (*Indiana Department of Administration; 25 IAC 5-6-3; filed May 30, 2003, 11:00 a.m.: 26 IR 3308*)

### 25 IAC 5-6-4 Procedure for subcontractor bid submission

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. (a) In a case where the bidder has arranged to subcontract one hundred percent (100%) or more of the subcontractor goal to MBEs and WBEs, a completed MBE/WBE subcontractor plan shall be submitted along with the other required bid documents.

(1) All MBE and WBE subcontractors must be validated by the department prior to the award of the contract. The completed plan shall include the following information:

- (A) Name of the enterprise to be employed.
- (B) Phone number of the enterprise.
- (C) Name of a contact person from the enterprise.
- (D) Work the enterprise will perform and the approximate date when the MBEs work will commence.
- (E) Contract amount for services that will be performed.

(2) In a case where the bidder has had the MBE/WBE subcontractor plan approved, where that bidder has been awarded the contract, and where the awarded contract is one hundred thousand dollars (\$100,000) or more, the bidder shall submit participation reports monthly, or at more frequent intervals, as may be requested.

(3) The department reserves the right to periodically require progress reports from the contractor on projects less than one hundred thousand dollars (\$100,000) regarding continuing MBE and WBE participation.

(b) Purchases from MBE or WBE suppliers are allowed for MBE or WBE credit in the program. The maximum allowable credit will be limited to sixty percent (60%) of the total project goal. The supplier must perform a commercially useful function.

(c) In a case where the bidder has been unable to arrange to subcontract one hundred percent (100%) of the subcontract goal, but has been able to arrange to subcontract some of the goal to MBEs or WBEs, both a completed MBE/WBE subcontractor plan and a completed application for MBE/WBE program waiver shall be submitted with the other required bid documents, as prescribed. All MBE and WBE subcontractors must be validated by the department prior to the award of the contract. All forms are to be completed as described in subsection (a).

(d) In a case where the bidder has been unable to arrange to subcontract the goal percentage or in a case where no MBE or WBE participation is expected to occur, a completed application for MBE/WBE program waiver shall be submitted, along with the other required bid documents, as prescribed. The application for program waiver shall be used to demonstrate the bidder's efforts to employ MBEs and WBEs on the project. The application shall include the following information:

- (1) Names of the MBE and WBE enterprises that the bidder has contacted or been contacted by.
- (2) Persons working at the enterprises who were contacted.
- (3) Phone numbers of the enterprises.
- (4) Types of contacts or communications.
- (5) An explanation of the results obtained, such as price not competitive, unable to contact, or no response.

The state reserves the right to verify and seek further clarification of any information submitted.

(e) Compliance with this rule is considered to be a demonstration of the bidder's responsiveness and responsibility. Therefore, all statements shall be complete, legible, true, and correct and shall not omit material facts. Failure to provide complete and accurate MBE and WBE subcontractor plans using minority and women's business enterprises validated as MBEs and WBEs by the department or failure to provide applications for MBE/WBE program waivers, or both, may be the basis for rejection of the bid. (*Indiana Department of Administration; 25 IAC 5-6-4; filed May 30, 2003, 11:00 a.m.: 26 IR 3308*)

**Rule 7. Compliance**

**25 IAC 5-7-1 Policy**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. (a) The results of a Statistical Analysis of Utilization, conducted in accordance with IC 4-13-16.5-1, will determine the availability of qualifying minority and women's business enterprises in the marketplace.

(b) Should the Statistical Analysis of Utilization find statistically significant disparities in state contractual expenditures in specifically defined areas, as compared to the ready, willing, and able minority and women's business enterprises in the state, the department shall institute goals for procurement and contracting to remedy the disparate findings of the study. (*Indiana Department of Administration; 25 IAC 5-7-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3309*)

**25 IAC 5-7-2 Parties to whom this rule applies**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 2. (a) This rule applies to all state agencies defined in IC 4-13-16.5-1 and 25 IAC 5-2-1(a)(19).

(b) This rule does not apply to state agencies whose purchases and contracts are not addressed in an applicable Statistical Analysis of Utilization. However, such state agencies shall provide reports to the department of MBE and WBE procurement and contracting. This information shall be incorporated as data for the next Statistical Analysis of Utilization. The state agency shall not be exempt from that point forward. (*Indiana Department of Administration; 25 IAC 5-7-2; filed May 30, 2003, 11:00 a.m.: 26 IR 3309*)

**25 IAC 5-7-3 Goal setting**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13-16.5-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 3. (a) The goal setting shall be subject to the

following provisions:

- (1) The goals shall be updated annually, during the month of March, to go into effect July 1 of the same year.
- (2) The goals shall reflect current utilization and availability.
- (3) The goals will apply to procurements and contracts as awarded, and to change orders, amendments, and other modifications to the contract, which affect contract value.
- (4) In accordance with IC 4-13-16.5-1, the findings of discrimination shall be updated, and the continuance of the goals shall be subject to the results of that review.

(b) Upon approval of the commission, the department may set overall MBE and WBE goals, which may be met through the use of prime contractors, subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE and WBE participation.

(c) Upon approval of the commission, the department may set specific MBE and WBE goals in the areas of construction, professional services, suppliers, and other business services based on the disparate findings of the Statistical Analysis of Utilization.

(d) Goals set by the department shall incorporate the availability of MBEs and WBEs to perform the work and the availability of MBEs and WBEs in the location where the work is to be done.

(e) Subgoals may be set, wherein specific race and gender goals are set, incorporating the findings of the study, and in accordance with applicable laws.

(f) Goals may vary on individual contracts. However, the combined participation shall represent the MBE and WBE participation for the year. (*Indiana Department of Administration; 25 IAC 5-7-3; filed May 30, 2003, 11:00 a.m.: 26 IR 3309*)

**25 IAC 5-7-4 Compliance monitoring**

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
 Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 4. (a) In the management of this program, the department shall exercise its rights to employ all available administrative actions and remedies to ensure that the goals and intent of the program are successfully met. Therefore, the department shall serve as the final authority in the authentication, acceptance, and certification of MBE and WBE enterprises according to the criteria established in this article.

(b) The department shall be final authority in the review, acceptance, and approval of all MBE and WBE affidavits and subcontractor plans, and applications for MBE/WBE program waivers, which are included in bid packages. In

the performance of these duties, the department shall:

- (1) Review all MBE and WBE affidavits and subcontractor plans, and applications for MBE or WBE program waivers, after the bid opening and before the award of the contract, in order to verify the authenticity of the documents and the successful bidder's adherence to the rules and regulations set forth in the contract documents.
- (2) Contact and interview the successful bidder or its listed subcontractors and material suppliers if further information is required to establish authenticity and to issue approval of the submitted documentation.
- (3) Conduct audits, as necessary, of the accounting records of the successful bidder and the MBE and WBE participants to determine and establish their authenticity for the final acceptance and approval of the documentation.
- (4) Issue an official NOTICE OF REJECTION when it has been determined that the successful bidder has not complied with the instructions set forth in the contract documents and this rule. The department may direct the successful bidder to submit revised documentation within five (5) working days or file for an official application for MBE/WBE program waiver. The department shall reserve the right to reject any and all bids when the successful bidder fails to respond to the department's request.
- (5) Issue an official NOTICE OF CONDITIONAL APPROVAL when the following has been determined:
  - (A) That the successful bidder has demonstrated a good faith effort towards compliance to the program, but when one (1) or more of the MBE or WBE enterprises listed does not conform to the guidelines of this article.
  - (B) When the levels of participation do not reach the goal of the project.

After a review of the situation and circumstances, the successful bidder may be directed to submit a revised MBE or WBE subcontractor plan or may be granted an official MBE/WBE program waiver, thereby allowing an exception to the goal for the project or any portion thereof.

- (6) Issue an approval of the MBE or WBE subcontractor plan when it has been determined that the successful bidder has achieved compliance with the project goal.
- (7) Issue an MBE/WBE program waiver from all or part of the project goal when it has been determined that the successful bidder has employed a good faith effort towards compliance to the program and when it has been determined that the realization of the project goal will not be feasible because of circumstances which are beyond the control of the bidder.
- (8) Make recommendations to the appropriate agencies for further investigation if misrepresentation is suspected.

(c) The department is the final authority in the review and acceptance of the successful bidder's MBE and WBE

program participation reports. Therefore, the department reserves the right to do the following:

- (1) Receive copies, on a timely basis or upon demand, of all reports for the expressed purpose of review, acceptance, or rejection. Timeliness of submittal, accuracy, and completeness will be subject to close scrutiny in the execution of this process.
- (2) Conduct interviews with the appropriate personnel or designated representatives from an enterprise, as necessary, to determine and establish authenticity for acceptance of the reports.
- (3) Conduct audits of the accounting records of an enterprise to determine accuracy in reporting and to establish authenticity for acceptance of the reports.
- (4) Direct the successful bidder and the MBE and WBE participants, or all, to provide, as necessary, additional documentation to establish authenticity for acceptance of the reports.
- (5) Make recommendations to the appropriate agencies for further investigation if misrepresentation is suspected.

(d) Because the attainment of the project goal has been established through contractual provisions with the prime contractor, the department shall consider the prime contractor to be the sole source of responsibility for goal attainment and project administration and shall, therefore, be held accountable for the actions of all of its subcontractors, including those subcontractors who have subcontracted work to MBE and WBE contractors or who have purchased materials from MBE and WBE suppliers.

(e) The department may employ its authority to make determinations of responsiveness and responsibility based on the actions of the subcontractors regarding adherence to Indiana laws and rules. (*Indiana Department of Administration; 25 IAC 5-7-4; filed May 30, 2003, 11:00 a.m.: 26 IR 3309*)

**25 IAC 5-7-5 Application for MBE/WBE program waiver**  
Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1  
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 5. (a) In cases where the contractor is unable to meet the project goal, the contractor may petition the department for relief from that goal by filing an application for MBE/WBE program waiver. The application for MBE/WBE program waiver shall show all reasonable good faith efforts that were made by the contractor for the purpose of fulfilling the project goal. Such reasonable efforts shall include, but may not be limited to, the following:

- (1) Documentation of direct contact or negotiations with MBEs and WBEs for specific contracting opportunities, the actions taken shall be reported in a manner that will include the following items:
  - (A) A detailed statement of the efforts made to negotiate with MBEs and WBEs, including the following:

(i) The names, addresses, and telephone numbers of MBEs and WBEs contacted.

(ii) A detailed statement of the reason why prospective agreements were not reached.

(B) A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs and WBEs in order to increase the likelihood of achieving the stated goal.

(2) Documentation of any advertising that the contractor performed in the search for prospective MBEs and WBEs for the contract.

(3) Documentation of any notifications that the contractor provided to minority business assistance agencies for the purpose of locating prospective MBEs and WBEs for the contract.

(4) Documentation of the contractor's efforts to research other possible areas of participation, including, but not limited to, any of the following:

(A) Suppliers.

(B) Shipping or transport enterprises.

(C) Engineering enterprises.

(D) Any other role that may contribute to the production and delivery of the product or service specified in the contract.

(5) Documentation regarding the contractor's affirmative action policies or programs as they pertain to the utilization of MBEs and WBEs. This documentation should also provide an explanation of the methods used to carry out the affirmative action policies.

(6) Documentation relevant to any other efforts the contractor has made to assist MBEs and WBEs in overcoming the traditional barriers of participation in the industry affected by the contract.

(b) When considering an application for MBE/WBE program waiver, the department will consider the following, including, but not limited to:

(1) The methods utilized by the contractor.

(2) The time the contractor has allowed for a meaningful response to its solicitations.

(3) Statements received from MBEs and WBEs who have been listed as having been contacted by the contractor.

(c) The contractor shall maintain adequate records of all relevant data with respect to the utilization and attempted utilization of MBEs and WBEs and shall provide full access to these records to the department upon its request to inspect them. (*Indiana Department of Administration; 25 IAC 5-7-5; filed May 30, 2003, 11:00 a.m.: 26 IR 3310*)

**25 IAC 5-7-6 Grant of waiver from project goal**

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

**Sec. 6.** Upon review and analysis of the documentation supplied to the department by the contractor, a determination

will be made and the contractor will be promptly notified of the results. Such results may include the following:

(1) Notification that the contractor has been granted a waiver from the project goal and has been authorized to proceed without any MBE or WBE participation on the contract.

(2) Notification that the contractor has been granted a partial waiver from the project goal and has been authorized to proceed when MBE and WBE participation is greater than zero (0), but less than the project goal.

(3) Notification that further information will be required before a final determination may be made.

(4) Notification that the application for MBE/WBE program waiver has not been granted. In such a case, the following action may result:

(A) The contractor may be required to provide further information.

(B) The contractor's bid may be rejected.

(*Indiana Department of Administration; 25 IAC 5-7-6; filed May 30, 2003, 11:00 a.m.: 26 IR 3311*)

**25 IAC 5-7-7 Appeals process for bid rejection or denial of waiver**

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

**Sec. 7. (a)** Upon notification that the application for MBE program waiver has been denied, the contractor may request a hearing with the MBE compliance review committee. The request for the hearing shall be directed to:

M/WBE Compliance Review Committee  
c/o Indiana Department of Administration  
Indiana Government Center-South  
402 West Washington Street  
Indianapolis, Indiana 46204.

(b) In the appeals process, the committee shall be responsible for the following activities:

(1) Arrange a time and place to hear the contractor's appeal within five (5) working days of the date of the receipt of the contractor's request for the hearing.

(2) Provide the contractor with every opportunity to present the reason for the appeal.

(3) Review and discuss all of the information at hand, including the following:

(A) MBE or WBE availability.

(B) The contractor's original efforts towards MBE and WBE utilization.

(C) Statements from MBEs or WBEs listed in the documentation supplied by the contractor.

(D) The arguments offered by the contractor at the hearing.

(4) Arrive at a final determination within five (5) working days after the conclusion of the appeal hearing.

(c) If the contractor is dissatisfied with the decision made

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by the M/WBE compliance review committee, the contractor may submit to the commissioner within five (5) working days after receipt of the committee's decision, a written request for review and reconsideration, stating with particularity the basis of its objections. The request for review may be accompanied by such additional written material as the contractor deems relevant to the review. The commissioner, or his or her designee, will consider the request and issue a written decision within ten (10) working days after receipt of all material. Failure of the commissioner to respond within ten (10) working days will be deemed a confirmation of the committee's decision. (*Indiana Department of Administration; 25 IAC 5-7-7; filed May 30, 2003, 11:00 a.m.: 26 IR 3311*)

### 25 IAC 5-7-8 Sanctions; contractors

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10; IC 35-43-5-9; IC 35-44-2-1

Sec. 8. (a) In the event of a violation of this rule, the department shall notify the contractor of the violations and will seek a course of action to correct them. The selected course of action may include the recommendation for the imposition of sanctions for material breach of contract if any of the following are determined:

- (1) The contractor has not demonstrated a good faith effort to comply with this rule.
- (2) The contractor has failed to cooperate in providing information regarding its good faith efforts to comply with this rule.
- (3) The contractor provides false or misleading information concerning its minority business enterprise contracting activity or in relation to the contractor's good faith efforts to comply with this rule.
- (4) The contractor fails to make prompt payment to a minority business for services, materials, or labor, whether with respect to the present contract or a previous contract between the contractor and the minority business, unless the contractor, in good faith, contests the payment or any part of it. The contractor fails to promptly pay the uncontested part to the minority business in the event the contractor, in good faith, contests part of a payment.
- (5) The business enterprise provides false or misleading information concerning its status as a bona fide entity, which is owned and actively controlled by racial minorities.
- (6) The contractor subjects an MBE or WBE to unlawful discriminatory conduct.

(b) In the event that it is determined that a violation of this rule has occurred, the department may elect to immediately employ one (1) or more of the following sanctions:

- (1) Withholding payments on the specific contract in which the deficiency is known to exist until such time that satisfactory corrective measures are made.

(2) Adjustment to payments due or the permanent withholding of retainages of the specific contract in which the deficiency is known to exist.

(3) Suspension or termination of the specific contract in which the deficiency is known to exist. In the event that this sanction is employed, the contractor will be held liable for any consequential damages arising from the suspension or termination of the contract, including damages caused as a result of the delay or from increased prices incurred in securing the performance of the balance of the work by other contractors.

(4) Recommendation to the certification board to revoke the contractor's certification status with the public works division of the department. This recommendation may result in the suspension or revocation of the contractor's ability to perform on future state contracts for a period no longer than thirty-six (36) months.

(5) Suspension, revocation, or denial of the MBE or WBE certification and eligibility to participate in the MBE or WBE program for a period of not more than thirty-six (36) months.

(c) In the event that sanctions are required, they may be employed immediately. Suspension or stay is in the sole discretion of the commissioner.

(d) In the event that the contractor has provided false or misleading information, the department may elect to provide the information to the appropriate investigating agencies for investigation and enforcement of any possible criminal violations or relevant statutes under IC 35-43-5-9 or IC 35-44-2-1.

(e) In the event that the contractor fails to pay the minority business in a timely manner or fails to satisfactorily resolve any outstanding claims, the department may elect to withhold the disputed amount from the payments due to the contractor and may elect to suspend or terminate the contract.

(f) In the event that the minority business enterprise has provided false or misleading information, the department may elect to provide the information to the appropriate investigating agencies for investigation and enforcement of any possible criminal violations of relevant statutes. (*Indiana Department of Administration; 25 IAC 5-7-8; filed May 30, 2003, 11:00 a.m.: 26 IR 3312*)

### 25 IAC 5-7-9 Appeals process for violations ruling or sanctions imposed

Authority: IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-16.5; IC 5-16-6.5; IC 22-9-1-10

Sec. 9. (a) Upon notification of the determination of rules violations or sanctions imposed, the contractor may request a hearing before the MBE compliance review

committee. The request for the hearing of an appeal shall be directed to:

M/WBE Compliance Review Committee
c/o Indiana Department of Administration
Indiana Government Center-South
402 West Washington Street
Indianapolis, Indiana 46204.

(b) In the appeals process, the committee shall be responsible for the following activities:

- (1) Arrange a time and place to hear the contractor's appeal within five (5) working days of the date of the receipt of the contractor's request for the hearing.
(2) Provide the contractor with every opportunity to present the basis for the appeal.
(3) Review and discuss all of the information at hand and the arguments offered by the contractor at the hearing.
(4) Arrive at a final determination within five (5) working days after the conclusion of the hearing.

(c) If the contractor is dissatisfied with the decision made by the M/WBE compliance review committee, the contractor may submit to the commissioner within five (5) working days after receipt of the committee's decision, a written request for review and reconsideration, stating with particularity the basis of its objections. The request for review may be accompanied by such additional written material as the contractor deems relevant to the review. The commissioner, or his or her designee, will consider the request and issue a written decision within ten (10) working days after receipt of all material. Failure of the commissioner to respond within ten (10) working days will be deemed a confirmation of the committee's decision. (Indiana Department of Administration; 25 IAC 5-7-9; filed May 30, 2003, 11:00 a.m.: 26 IR 3312)

Rule 8. Commission Members

25 IAC 5-8-1 Ethics of commission members

Authority: IC 4-13-1-4; IC 4-13-1-7; IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13-1; IC 4-13.5-1; IC 4-13.6; IC 5-22

Sec. 1. Commission members shall abide by all applicable state statutes, administrative rules, policies, and guidelines regarding ethical conduct. (Indiana Department of Administration; 25 IAC 5-8-1; filed May 30, 2003, 11:00 a.m.: 26 IR 3313)

SECTION 2. THE FOLLOWING ARE REPEALED: 25 IAC 2-19; 25 IAC 2-20.

LSA Document #02-150(F)
Notice of Intent Published: 25 IR 2747
Proposed Rule Published: October 1, 2002; 26 IR 67
Hearing Held: October 28, 2002
Approved by Attorney General: May 28, 2003

Approved by Governor: May 29, 2003
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Incorporated Documents Filed with Secretary of State: 13 CFR 124.103.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-201(F)

DIGEST

Amends 312 IAC 18-3-12 that governs standards for the control of larger pine shoot beetles by adding Bartholomew, Franklin, Monroe, Morgan, and Putnam Counties to the quarantine area. Effective 30 days after filing with the secretary of state.

312 IAC 18-3-12

SECTION 1. 312 IAC 18-3-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 18-3-12 Control of larger pine shoot beetles

Authority: IC 14-10-2-4; IC 14-24-3
Affected: IC 14-24

Sec. 12. (a) The larger pine shoot beetle (Tomicus piniperda) is a pest or pathogen. This section governs standards for the control of the larger pine shoot beetle in Indiana.

(b) Except as provided in subsection (c), the division has determined Indiana is an infested area where the larger pine shoot beetle is present.

(c) Exempted from subsection (b) are the following counties:

- (1) Bartholomew:
(2) (1) Clark.
(3) (2) Clay.
(4) (3) Crawford.
(5) (4) Daviess.
(6) (5) Dearborn.
(7) (6) Decatur.
(8) (7) Dubois.
(9) (8) Floyd.
(10) Franklin:
(11) (9) Gibson.
(12) (10) Greene.
(13) (11) Harrison.
(14) (12) Jackson.
(15) (13) Jefferson.
(16) (14) Jennings.
(17) (15) Knox.
(18) (16) Lawrence.
(19) (17) Martin.
(20) Monroe:

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- (21) ~~Morgan~~.
- (22) (18) Ohio.
- (23) (19) Orange.
- (24) (20) Perry.
- (25) (21) Pike.
- (26) (22) Posey.
- (27) ~~Putnam~~.
- (28) (23) Ripley.
- (29) (24) Scott.
- (30) (25) Spencer.
- (31) (26) Sullivan.
- (32) (27) Switzerland.
- (33) (28) Union.
- (34) (29) Vanderburgh.
- (35) (30) Vigo.
- (36) (31) Warrick.
- (37) (32) Washington.

- (d) The following items are regulated articles:
- (1) The larger pine shoot beetle in any life stage.
  - (2) Entire plants or parts of the genus pine (*Pinus* spp.). Exempted from this subdivision are plants that conform to each of the following:
    - (A) Are less than thirty-six (36) inches high.
    - (B) Are one (1) inch in basal diameter or less.
  - (3) Logs and lumber of pine with bark attached. Exempted from this subdivision are logs of pine and pine lumber with bark attached if:
    - (A) the source tree was felled during the period of July through October; and
    - (B) the logs and lumber are shipped from the quarantined area during the period of July through October.
  - (4) Any other article, product, or means of conveyance if determined by the division director to present the risk of spread of the larger pine shoot beetle.

- (e) The following actions are ordered within the infested area:
- (1) The movement by a person of a regulated article to a destination outside the infested area is prohibited, except under the following conditions:
    - (A) A thorough examination of all nursery stock takes place on a piece by piece basis.
    - (B) A statistically based examination of Christmas trees is made according to the following schedules:

TABLE 1. PAINTED (COLOR-ENHANCED)  
PINE CHRISTMAS TREES<sup>1</sup>

No. of Trees in Shipment	No. of Trees to Sample	No. of Trees in Shipment	No. of Trees to Sample
1 – 72	All	700 – 800	120
73 – 100	73	801 – 900	121
101 – 200	96	901 – 1,000	122
201 – 300	106	1,001 – 2,000	126

301 – 400	111	2,001 – 3,000	127
401 – 500	115	3,001 – 5,000	128
501 – 600	117	5,001 – 10,000	129
601 – 700	119	10,001 or more	130

<sup>1</sup>If a pine shoot beetle is detected in any one (1) of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, “All trees that remain unsold as of December 25 must be destroyed by burning or chipping, or must be fumigated prior to January 1.”.

TABLE 2. NATURAL (UNPAINTED)  
CHRISTMAS TREES<sup>1</sup>

No. of Trees in Shipment	No. of Trees to Sample	No. of Trees in Shipment	No. of Trees to Sample
1 – 57	All	501 – 600	80
58 – 100	58	601 – 700	81
101 – 200	69	701 – 1,000	82
201 – 300	75	1,001 – 3,000	84
301 – 400	77	3,001 – 10,000	85
401 – 500	79	10,001 or more	86

<sup>1</sup>If a pine shoot beetle is detected in any one (1) of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, “All trees that remain unsold as of December 25 must be destroyed by burning or chipping, or must be fumigated prior to January 1.”.

(C) Following the examination, a determination is made that no life stages of the larger pine shoot beetle are present. The determination must be accompanied by either of the following:

- (i) A certificate of inspection approved by the division.
- (ii) A certificate or similar authorization issued by the U.S. Department of Agriculture under a parallel federal quarantine.

(D) The certificate for the absence of the larger pine shoot beetle must be attached to and remain on the regulated articles until the articles reach their destinations. This requirement is, however, satisfied if the certificate is attached to the shipping document and the regulated article is adequately described on the shipping document of the certificate.

(2) A regulated article originating outside the infested area may move through the infested area without a certificate of inspection if the point of origin of the regulated article is indicated on the waybill or shipping documents and transportation conforms with this subdivision. Passage through the infested area must be made without stopping, except for refueling or traffic conditions, and shall be conducted within

either of the following conditions:

- (A) The ambient temperature is below fifty (50) degrees Fahrenheit.
- (B) The regulated article is carried in an enclosed vehicle with an adequate covering to prevent access by the larger pine shoot beetle. Examples of an adequate covering include canvas, plastic, or loosely woven cloth.
- (3) A regulated article originating outside the infested area which is moved into the infested area and exposed to potential infestation by the larger pine shoot beetle is considered to have originated from the infested area. Any regulated article under this subdivision is controlled by subdivision (1).
- (4) The movement of a regulated article from an infested area through any noninfested area to another infested area is prohibited without a certificate for the absence of the larger pine shoot beetle except where both of the following conditions are met:
  - (A) Passage through a noninfested area is made without stopping, except for refueling or traffic conditions, if the ambient temperature is below fifty (50) degrees Fahrenheit or if in an enclosed vehicle with an adequate covering to prevent access by the larger pine shoot beetle.
  - (B) The waybill or shipping documents accompanying any shipment of regulated articles within or through Indiana indicate the county and state of origin of the regulated articles.
- (5) Any regulated article imported or moved within Indiana in violation of this section shall be immediately removed from any noninfested area or destroyed. The expense of compliance with this subdivision is the joint and several responsibility of any person possessing or owning the regulated article. Compliance with this subsection shall be performed under the direction of the division director.
- (6) In addition to the penalty set forth in subdivision (5), a person who violates this section is subject to any administrative, civil, or criminal sanction set forth in IC 14-24 and this article.
- (7) This section does not preclude the division director from issuing any permit under section 3 of this rule.

*(Natural Resources Commission; 312 IAC 18-3-12; filed Nov 22, 1996, 3:00 p.m.: 20 IR 950; filed Dec 3, 1997, 3:30 p.m.: 21 IR 1273; filed Feb 9, 1999, 4:16 p.m.: 22 IR 1945; filed Apr 4, 2001, 3:02 p.m.: 24 IR 2404; filed May 16, 2002, 12:28 p.m.: 25 IR 3049; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 19, 2003, 8:50 a.m.: 26 IR 3313)*

*LSA Document #02-201(F)  
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 Hearing Held: January 27, 2003  
 Approved by Attorney General: May 9, 2003  
 Approved by Governor: May 14, 2003  
 Filed with Secretary of State: May 19, 2003, 8:50 a.m.  
 Incorporated Documents Filed with Secretary of State: None*

**TITLE 312 NATURAL RESOURCES COMMISSION**

LSA Document #02-202(F)

**DIGEST**

Amends 312 IAC 18-3-8 that governs the standards for the control of black stem rust by adding new varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. Effective 30 days after filing with the secretary of state.

**312 IAC 18-3-8**

SECTION 1. 312 IAC 18-3-8, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 18-3-8 Control of black stem rust**

**Authority:** IC 14-10-2-4; IC 14-24-3  
**Affected:** IC 14-24-5

Sec. 8. (a) Black stem rust is a pest or pathogen. This section governs standards for the control of black stem rust in Indiana.

- (b) The following items are regulated under this section:
  - (1) Seedlings and plants ~~which~~ **that** exhibit growth for less than two (2) years of the genus *Berberis*.
  - (2) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Berberis* species:

- B. aggregata x B. wilsoniae “Pirate King”**
- B. “Amstelveen”**
- B. aridocalida
- B. beaniana
- B. buxifolia
- B. buxifolia nana
- B. calliantha
- B. candidula
- B. candidula “Amstelveen”**
- B. candidula x B. verruculosa “Amstelveen”**
- B. cavallieri
- B. chenaulti
- B. ~~chenaulti~~ **chanaulti** “Apricot Queen”
- B. circumserrata
- B. concinna
- B. coxii
- B. darwini
- B. dasystachya
- B. dubia
- B. feddeana
- B. formosana
- B. franchetiana
- B. ~~gagnepainii~~ **gagnepainii**
- B. gagnepainii “Chenault”**
- B. gilgiana
- B. gladwynensis
- B. gladwynensis “William Penn”
- B. gyalaiica

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- B. heterophylla
- B. horvathi
- B. hybrido-gagnepaini
- B. insignis
- B. integerrima “Wallichs Purple”**
- B. julianae
- B. julianae “Nana”
- B. julianae “Spring Glory”
- B. koreana
- B. koreana x B. thunbergii hybrid Bailsel
- B. koreana x B. thunbergii hybrid Tara
- B. lempergiana
- B. lepidifolia
- B. linearifolia
- B. linearifolia var. “Orange King”
- B. lologensis
- B. lologensis “Mystery Fire”**
- B. manipurana
- B. media “Park Jewel” **Jewel”**
- B. media “Red Jewel”**
- B. mentorensis
- B. pallens
- B. poiretii “BJG 073”, “MTA”**
- B. potanini
- B. renton
- B. replicata
- B. sanguinea
- B. sargentiana
- B. sikkimensis
- B. soulieana “Claret Cascade”**
- B. stenophylla
- B. stenophylla diversifolia
- B. stenophylla gracilis
- B. stenophylla irwini
- B. stenophylla nana compacta
- B. taliensis
- B. telomaica artisepala
- B. thunbergii
- B. thunbergii “Antares”**
- B. thunbergii argenteo marginata
- B. thunbergii atropurpurea
- B. thunbergii atropurpurea erecta
- B. thunbergii atropurpurea erecta Marshalli
- B. thunbergii atropurpurea “Golden King” **Ring”**
- B. thunbergii atropurpurea “Intermedia”
- B. thunbergii atropurpurea “Knight Burgundy”
- B. thunbergii atropurpurea nana
- B. thunbergii atropurpurea “Redbird”
- B. thunbergii atropurpurea “Rosy” **Rose Glow”**
- B. thunbergii aurea
- B. thunbergii “Aurea Nana”**
- B. thunbergii “Bagatelle”
- B. thunbergii “Bailgreen” (Jade Carousel™)**
- B. thunbergii “Bailone”**
- B. thunbergii “Bailone” (Ruby Carousel®)**
- B. thunbergii “Bailtwo”**
- B. thunbergii “Bailtwo” (Burgundy Carousel®)**
- B. thunbergii “Bonanza Gold”
- B. thunbergii “Concorde”**
- B. thunbergii “Crimson Pygmy”
- B. thunbergii “Criruzam” Crimson Ruby™**
- B. thunbergii “Dwarf Jewell”
- B. thunbergii erecta
- B. thunbergii “globe”
- B. thunbergii “golden”
- B. thunbergii “Golden Pygmy”**
- B. thunbergii “Green Carpet”**
- B. thunbergii “Harlequin”**
- B. thunbergii “Helmond Pillar”
- B. thunbergii “Kobald” **“kobold”**
- B. thunbergii “Lime Glow”**
- B. thunbergii “Lustre Green”**
- B. thunbergii maximowiczii
- B. thunbergii “Midruzam” Midnight Ruby™**
- B. thunbergii minor
- B. thunbergii “Monlers”
- B. thunbergii “Monomb”**
- B. thunbergii “Monry”**
- B. thunbergii “Painter’s Palette”**
- B. thunbergii “Pink Queen”**
- B. thunbergii pluriflora
- B. thunbergii “Royal Burgundy”**
- B. thunbergii “Royal Cloak”**
- B. thunbergii “Sparkle”
- B. thunbergii “Thornless”
- B. thunbergii “Upright Jewell”
- B. thunbergii variegata
- B. thunbergii xanthocarpa
- B. thunbergii x “Bailsel” (Golden Carousel®)**
- B. thunbergii x “Tara” (Emerald Carousel®)**
- B. triacanthophora
- B. triculosa
- B. verruculosa
- B. virgatorum
- B. workingensis
- B. xanthoxylon
- B. x carminea “Pirate King”**
- B. x frikartii “Amstelveen”.**

(3) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant Mahoberberis and Mahonia species, except Mahonia cuttings for decorative purposes:

(A) The following genera Mahoberberis:

- M. aquicandidula
- M. aquifolium “Smaragd”**
- M. aquisargentiae
- M. miethkeana
- M. x “Magic”.**

(B) The following genera Mahonia:

- M. amplexans

- M. aquifolium
- M. aquifolium atropurpurea
- M. aquifolium compacta
- M. aquifolium compacta “John Muir”
- M. aquifolium “Donewell”
- M. aquifolium “Kings Ransom”
- M. aquifolium “Orange “Orangee Flame”
- M. aquifolium “Undulata”**
- M. aquifolium “Winter Sun”
- M. “Arthur Menzies”
- M. bealei
- M. dictyota
- M. fortunei
- M. “Golden Abundance”
- M. japonica
- M. japonica x M. lomariifolia “Charity”**
- M. lomariifolia
- M. nervosa
- M. pinnata
- M. pinnata “Ken Hartman”
- M. piperiana
- M. pumila
- M. repens
- M. x media “Charity”**
- M. x media “Winter Sun”.**

(4) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera Berberis, Mahoberberis, and Mahonia, and seedlings from rust-susceptible species and varieties of the genera Mahoberberis and Mahonia, except Mahonia cuttings for decorative purposes.

(5) Any other product or article not listed in this subsection which a division inspector determines presents a risk of spread of black stem rust. The division inspector shall notify the person in possession of a product or article **which that** qualifies under this subdivision that it is subject to this section.

(c) During the inspection of a nursery under IC 14-24-5, a division inspector shall examine all nursery stock to determine that the nursery stock consists only of rust-resistant varieties of the genera Berberis, Mahoberberis, and Mahonia, and that the plants are true to type. A plant **which that** does not meet the requirements of this subsection must be destroyed.

(d) If a nursery raises plants of the genera Berberis, Mahoberberis, or Mahonia from seed, the division shall conduct a visual inspection to verify that no wild or domesticated plants are growing within one-half (½) mile of the nursery. The inspection must conform to standards set forth in 7 CFR 301.38-3. A nursery **which that** does not meet the requirements of this subsection must cease raising plants of the described genera.

(e) Except as provided in subsection (g), the following

articles regulated under this section are prohibited from moving interstate into or through Indiana:

(1) All Berberis seedlings and plants **which that** exhibit growth for less than two (2) years; rust-susceptible Berberis plants, seeds, and fruits; and other plant parts capable of propagation.

(2) Rust-susceptible Mahoberberis and Mahonia plants, seedlings, seeds, fruits, and other plant parts capable of propagation.

(f) The following articles regulated under this section may be moved interstate into or through Indiana only if accompanied by a certificate issued and attached under 7 CFR 301.38-5 and 7 CFR 301.38-7:

(1) Plants which exhibit growth for at least two (2) years, seeds, fruits, and other plant parts capable of propagation of the genera Mahoberberis and Mahonia that are designated as rust-resistant in subsection (b)(2).

(2) Plants, seedlings, seeds, fruits, and other plant parts capable of propagation of the genera Mahoberberis and Mahonia that are designated as rust-resistant in subsection (b)(3).

(g) A regulated article not eligible for a certificate under 7 CFR 301.38-5 and 7 CFR 301.38-7 may be moved interstate into or through Indiana as authorized by a special permit issued under 7 CFR 301.38-4 by an employee of the Animal and Plant Health Inspection Service of the United States Department of Agriculture. (*Natural Resources Commission; 312 IAC 18-3-8; filed Nov 22, 1996, 3:00 p.m.: 20 IR 947; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 19, 2003, 9:10 a.m.: 26 IR 3315*)

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**TITLE 312 NATURAL RESOURCES COMMISSION**

LSA Document #02-236(F)

**DIGEST**

Amends 312 IAC 2-4 that governs organized activities and tournaments on public waters. A definition for “major organized boating activity” is added, and the regulation of a major organized boating activity is placed under 312 IAC 5-3. Identifies the division of law enforcement as the administering division for 312 IAC 2-4. Additional factors are included for

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the division to consider in evaluating a license for fishing tournaments, and additional duties are defined for license holders. The department's fall consideration of tournament applications is limited to the next season rather than the next two seasons. Lake Wawasee and Syracuse Lake in Kosciusko County are added to the public waters for which the sponsor of a fishing tournament must obtain a license, and specific numerical limitations are established for tournament activities on these lakes. Amendments are made to 312 IAC 5-3 to provide consistent administration with 312 IAC 2-4. Makes other substantive and technical changes. Repeals 312 IAC 2-4-8 and 312 IAC 2-4-10. Effective October 1, 2003.

<b>312 IAC 2-4-1</b>	<b>312 IAC 2-4-9.5</b>
<b>312 IAC 2-4-2</b>	<b>312 IAC 2-4-10</b>
<b>312 IAC 2-4-4</b>	<b>312 IAC 2-4-12</b>
<b>312 IAC 2-4-6</b>	<b>312 IAC 2-4-13</b>
<b>312 IAC 2-4-7</b>	<b>312 IAC 5-3-1</b>
<b>312 IAC 2-4-8</b>	<b>312 IAC 5-3-2</b>
<b>312 IAC 2-4-9</b>	<b>312 IAC 5-3-3</b>

SECTION 1. 312 IAC 2-4-1, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 2-4-1 Applicability**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 1. (a) This rule applies to both of the following:

- (1) The process for designating any public water where organized activities and tournaments are regulated.
- (2) The administration of organized activities and tournaments on waters designated under subdivision (1).

(b) Exempted from this rule ~~is any~~ **are each of the following:**

- ~~(1) A boat race. or~~
- ~~(2) A water ski event. Those activities are governed by 312 IAC 5-3.~~
- (3) A major organized boating activity.**

(c) A person must not conduct or participate in a fishing tournament or other organized activity on a public water designated in this rule except under a license issued under this rule.

(d) ~~The director department's division of law enforcement shall designate a point of contact within the department for the administration of this rule, including the supervision of an activity regulated under administer~~ this rule. (*Natural Resources Commission; 312 IAC 2-4-1; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3318, eff Oct 1, 2003*)

SECTION 2. 312 IAC 2-4-2, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 2-4-2 Definitions**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 2. (a) The definitions in this section apply throughout this rule and are in addition to the definitions in 312 IAC 1.

(b) "Boat race" has the meaning set forth at 312 IAC 5-2-5.

(c) "Fishing tournament" means an activity involving fifteen (15) or more watercraft used for taking fish where:

- (1) persons compete for a trophy, citation, cash, or prize; or
- (2) a fee is charged to participants.

(d) ~~Other~~ "Major organized boating activity" means an activity involving fifteen (15) or more watercraft other than

~~(1) a boat race,~~

~~(2) a fishing tournament, or~~

~~(3) a water ski event that:~~

- (1) involves fifteen (15) or more watercraft as participants;**
- (2) involves fifty (50) or more watercraft as spectators;**
- (3) is conducted according to a prearranged schedule for a limited duration; or**
- (4) is reasonably expected to significantly disrupt boat traffic.**

(e) "Water ski event" has the meaning set forth at 312 IAC 5-2-44. (*Natural Resources Commission; 312 IAC 2-4-2; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3318, eff Oct 1, 2003*)

SECTION 3. 312 IAC 2-4-4, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 2-4-4 Notice of and response to petition**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 4. (a) Upon receipt of a completed petition under section 3 of this rule, the division of hearings of the commission shall cause:

- (1) a copy of the petition to be delivered for each deputy director of the department; and
- (2) notice of the petition and a brief summary of its contents to be delivered to the legislative services agency for publication in the Indiana Register.

(b) Within ninety (90) days after the receipt of a petition under subsection (a), the department shall review and tender written recommendations to the commission regarding preliminary adoption of a rule to implement the petition. A copy of the recommendations shall also be served upon the petitioner and any other person who requests in writing that the department provide a copy.

(c) In preparing the recommendations described in subsection (b), the department shall consult with the petitioner and any other interested person. The recommendations shall consider each of the following:

- (1) Fish, wildlife, or botanical resource management.
- (2) The protection of users, including the following:
  - (A) Limitations of the public water to safely accommodate watercraft.
  - (B) Limitations of facilities relative to vehicular access, pedestrian safety, parking, and the launching of watercraft.
- (3) The protection of private and public property.
- (4) Cultural resources.

**(d) For an application to establish a license requirement on a public freshwater lake, the department shall consider limiting the total number of boats in an activity conducted between April 1 and September 30, and licensed under this rule or under 312 IAC 5-3.**

**(e) The maximum number established under subsection (d) governs any date on which the activity or a portion of the activity is conducted.**

~~(f)~~ **(f)** If the department does not tender its written recommendations to the commission in a timely fashion as provided in subsection (b), the petitioner may move the commission to place the petition on its agenda at the next regular ~~monthly~~ meeting. *(Natural Resources Commission; 312 IAC 2-4-4; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3930, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3318, eff Oct 1, 2003)*

SECTION 4. 312 IAC 2-4-6, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 2-4-6 License application**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 6. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least ninety (90) days before the date of the proposed tournament.

**(b) An applicant must be an individual who is at least eighteen (18) years of age and a resident of Indiana.**

~~(c)~~ **(c)** The applicant shall attach a copy of the proposed ~~tournament~~ standards and regulations **governing the activity.**

**(d) The department shall condition any license to achieve at least one (1) of the following:**

- (1) Prevention of unusual conditions or hazards.**
- (2) Promotion of scientific fish, wildlife, or botanical resource management.**
- (3) Assistance in the protection of users.**

**(e) To accomplish the purposes described in subsection (d), the department may do any of the following:**

- (1) Designate the starting time or ending time for an activity.**
- (2) Designate the time and location for the use of any public facilities.**
- (3) Spread starting times among license holders if more than one (1) is approved for a particular waterway.**
- (4) Restrict portions of the waterway from use by the participants.**

*(Natural Resources Commission; 312 IAC 2-4-6; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003)*

SECTION 5. 312 IAC 2-4-7, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 2-4-7 Advance date approval**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 7. (a) The department will conduct an organizational meeting between October 1 and December 15 to establish dates for the following ~~two (2) years~~ **year** on which fishing tournaments or other organized activities can be conducted.

(b) A person who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least ~~ninety (90)~~ **sixty (60)** days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation. *(Natural Resources Commission; 312 IAC 2-4-7; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003)*

SECTION 6. 312 IAC 2-4-9, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 2-4-9 General duties of license holder**

Authority: IC 14-10-2-4; IC 14-11-2-1  
Affected: IC 14

Sec. 9. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

- (1) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.**
- ~~(2)~~ **(2)** Obtain permission from the department to use a zone or zones in the public water for mooring, judging, ~~and weigh-in,~~ starting, **or for any other activities using public facilities.**
- ~~(3)~~ **(3)** Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.

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(3) (4) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.

(4) (5) Provide officials needed to supervise ~~contestants~~ **participants** and spectators.

(5) (6) Require each participating watercraft to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.

(6) (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.

(7) (8) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.

**(9) Refrain from obstructing ingress, egress, or regress from private property.**

**(10) Assure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:**

(A) Except as provided in clause (B), vehicles and trailers of contestants must use no more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.

(B) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under clause (A). This clause does not apply to a fishing tournament that is subject to section 12 of this rule.

**(11) Sponsor no more than one (1) event licensed under this rule on the same waterway with starting dates separated by less than fourteen (14) days. A tournament scheduled for two (2) consecutive days is considered a single event. The division of law enforcement may authorize an individual to seek more than one (1) event on the same waterway, with starting dates separated by less than fourteen (14) days, if in seeking the license, the individual is acting as the agent for different tournament organizations.**

**(12) Act in good faith to fully perform the event. A person who demonstrates a pattern of violations of this subdivision may be denied another license.**

*(Natural Resources Commission; 312 IAC 2-4-9; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003)*

SECTION 7. 312 IAC 2-4-9.5, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### 312 IAC 2-4-9.5 Reporting

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

Sec. 9.5. (a) A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the

**number of boats and participants, starting and ending times, and actual use of public facilities.**

(b) In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report, on a department form, legible and accurate records of the following:

- (1) Tournament name.
- (2) Name, address, and telephone number of the license holder.
- (3) Tournament date or dates, including starting time and ending time.
- (4) Target fish species.
- (5) Name of any waterway fished.
- (6) Number of boats and number of participants.
- (7) Individual or team catch statistics for each species of fish taken, including the following:

- (A) The numbers and lengths of fish weighed-in.
- (B) The numbers and lengths of fish caught and released.

*(Natural Resources Commission; 312 IAC 2-4-9.5; filed May 16, 2002, 10:00 a.m.: 25 IR 3045; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003)*

SECTION 8. 312 IAC 2-4-12, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### 312 IAC 2-4-12 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 5-14-3; IC 14

Sec. 12. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of watercraft that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinewa	Huntington	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	0	18	100	30	178	50	100
April	175	75	0	18	100	30	178	50	60
May	175	75	0	30	100	20	178	28	50
June	175	30	0	30	75	20	125	28	50
July	175	30	0	30	75	20	125	28	50
August	175	30	0	30	75	20	125	28	50
September	175	75	0	30	100	20	178	28	60
October	175	75	0	18	100	30	178	50	100
November	100	0	0	0	100	30	178	0	0

(c) A watercraft used to administer a tournament is excluded

in determining the number of participating watercraft.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided advance notice of the location. The name of the lake may be omitted from the license application, but the department must be provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

**(e) Notwithstanding section 7(a) of this rule, the department's division of state parks and reservoirs will conduct an organizational meeting between October 1 and December 15 to establish dates for the following two (2) years on which fishing tournaments or other organized activities can be conducted.**

~~(e)~~ (f) Notwithstanding subsection (b), no more than one hundred (100) watercraft may participate in a fishing tournament on Monroe Lake on any date after October 15.

~~(f)~~ (g) At least thirty (30) days before the scheduled event, a license holder shall file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

- (1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.
- (2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.
- (3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

~~(g)~~ (h) At least fourteen (14) days before the scheduled event, a license holder must deliver each of the following to the department:

- (1) A cash bond or other security approved by the department in the amount of one hundred fifty dollars (\$150) to compensate the department for expenses incurred to:
  - (A) restore the mooring, judge's, or spectators' area; and
  - (B) reimburse the department for the costs of supervision, maintenance, and labor.
- (2) A user fee equal to the number of individual contestants in a fishing tournament or other organized activity at a rate of one dollar (\$1) per contestant or participant.

~~(h)~~ (i) The director may require insurance in addition to what is set forth in subsection (a) if the director determines a fishing tournament poses an unusual risk of liability to the department.

~~(i)~~ (j) A license holder shall indemnify, defend, exculpate,

and hold harmless the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity. (*Natural Resources Commission; 312 IAC 2-4-12; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3932, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003*)

SECTION 9. 312 IAC 2-4-13 IS ADDED TO READ AS FOLLOWS:

**312 IAC 2-4-13 Limitations on organized boating activities at Lake Wawasee and Syracuse Lake, Kosciusko County**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

**Sec. 13. (a) This section governs organized boating activities on Lake Wawasee and Syracuse Lake in Kosciusko County.**

**(b) On the combined waters of Lake Wawasee and Syracuse Lake, the maximum number of watercraft that can lawfully participate in a fishing tournament on a Saturday or a Sunday is as follows:**

- (1) One hundred twenty-five (125) for the following periods:**
  - (A) from April 1 until the weekend including Memorial Day; and**
  - (B) after the weekend including Labor Day until September 15.**
- (2) One hundred (100) from the weekend including Memorial Day through the weekend including Labor Day.**

**(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating watercraft may be attributed either to Saturday or to Sunday so as to facilitate the ability of an organized boating activity to use the lake.** (*Natural Resources Commission; 312 IAC 2-4-13; filed May 27, 2003, 12:35 p.m.: 26 IR 3321, eff Oct 1, 2003*)

SECTION 10. 312 IAC 5-3-1 IS AMENDED TO READ AS FOLLOWS:

**Rule 3. Boat Races, Water Ski Events, and Major Organized Boating Activities**

**312 IAC 5-3-1 Boat races, water ski events, and major organized boating activities; applicability**

Authority: IC 14-10-2-4; IC 14-15-7-3  
Affected: IC 14

**Sec. 1. (a) This rule governs the conduct of any boat race, or water ski event, and major organized boating activity.**

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(b) No person shall sponsor, conduct, participate, or compete in a boat race, ~~or~~ water ski event, **or major organized boating activity** upon the public waters of this state, including ice, unless a license for a boat race, ~~or~~ water ski event, **or major organized boating activity** is issued by the division under this rule.

(c) A license application must be made on a department form and delivered to the central office for the division. The application shall include a description of the proposed boat race or water ski event course, capable of being marked and fixed. An application that is not filed with the division at least sixty (60) days before the proposed race or event will be denied unless the requirements of this rule are satisfied pertaining to permit review by the division and notice to interested persons. (*Natural Resources Commission; 312 IAC 5-3-1; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3321, eff Oct 1, 2003*)

SECTION 11. 312 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 5-3-2 Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or major organized boating activity**

**Authority:** IC 14-10-2-4; IC 14-15-7-3  
**Affected:** IC 14

Sec. 2. (a) Upon the receipt of a license application, a conservation officer shall inspect the ~~proposed boat race or water ski areas that would be affected by the event.~~ **course:**

(b) The conservation officer shall consider the following factors in reviewing the permit application:

- (1) The density of water traffic on the public water.
- (2) The physical characteristics of the public water.
- (3) The proximity of the proposed ~~course~~ **event** to land owned by a person other than the license applicant.
- (4) The kinds of watercraft that ~~will participate in the race or event.~~ **would be involved.**
- (5) Any other factors ~~relative to the proposed race or event that may cause a hazard to persons, property, or the environment.~~ **are appropriate to at least one (1) of the following:**
  - (A) **Preventing the existence of unusual conditions or hazards.**
  - (B) **Promoting scientific fish, wildlife, or botanical resource management.**
  - (C) **Assisting in the protection of users.**

(c) A written report of the inspection shall be submitted by the conservation officer to the division director, together with recommendations for approval, disapproval, or the placement of conditions on the license. (*Natural Resources Commission; 312 IAC 5-3-2; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003*)

SECTION 12. 312 IAC 5-3-3 IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 5-3-3 Public notice before the issuance of a license for a boat race, water ski event, or major organized boating activity**

**Authority:** IC 14-10-2-4; IC 14-15-7-3  
**Affected:** IC 4-21.5; IC 14

Sec. 3. (a) This section establishes notification requirements before a license is issued under this rule. Subsequent to the issuance of a license by the division, IC 4-21.5 applies.

(b) At least thirty (30) days before the division can issue a license, an applicant shall provide, at its expense, notice of the license application as follows:

(1) Once in one (1) newspaper of general circulation in the county or counties where the boat race, ~~or~~ water ski event, **or major organized boating activity** will occur.

(2) In person, by certified mail with return receipt requested, or by first class mail with proof of mailing, to the following:

(A) Any person who provides the division with a written request to be notified if a boat race, ~~or~~ water ski event, **or major organized boating activity** permit is requested. A request under this clause is valid during the year in which it is received for the waterway named in the request.

(B) If a ~~course~~ **the affected area** for the boat race, ~~or~~ water ski event, **or major organized boating activity** is located on a public freshwater lake or Lake Michigan, to at least one (1) of the owners of each parcel of property reasonably known to be located within two hundred (200) feet of the course.

(C) If a ~~course~~ **the affected area** for the boat race, ~~or~~ water ski event, **or major organized boating activity** is located within a municipality, to the municipality.

(c) A notice under this section shall do the following:

- (1) Provide the name and address of the applicant.
- (2) Specify that the license is sought under this rule and whether the license will authorize a boat race, ~~or~~ a water ski event, **or major organized boating activity.**
- (3) Describe or illustrate the ~~course~~ **of area affected by** the event and when the event will occur.
- (4) Include an explanation of the options available to the persons served. These options are as follows:

(A) File a petition with the central office of the division requesting an informal hearing that is signed by at least twenty-five (25) individuals who are at least eighteen (18) years old and who reside in the county where the event will occur. A hearing under this clause is governed by 312 IAC 2-3.

(B) Request the division to notify the person in writing when an initial determination is made to issue or deny the license. Following the receipt of notice under this clause, a person may request administrative review of the determination under 312 IAC 3-1.

*(Natural Resources Commission; 312 IAC 5-3-3; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003)*

SECTION 13. THE FOLLOWING ARE REPEALED: 312 IAC 2-4-8; 312 IAC 2-4-10.

*LSA Document #02-236(F)*

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**TITLE 312 NATURAL RESOURCES COMMISSION**

LSA Document #02-294(F)

DIGEST

Amends 312 IAC 3-1-12 that governs oral arguments following objections to authorize the chair of the natural resources commission to form a committee to provide final agency relief for matters subject to IC 4-21.5-3-31. Places authority in the committee to provide other appropriate relief under IC 4-21.5-3-28 through IC 4-21.5-3-31. Effective 30 days after filing with the secretary of state.

**312 IAC 3-1-12**

SECTION 1. 312 IAC 3-1-12, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 3-1-12 Relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, including disposition of objections to nonfinal orders of administrative law judge; commission objections committee**

**Authority:** IC 14-10-2-4; IC 4-21.5-3-28

**Affected:** IC 4-21.5-1-6; IC 4-21.5-3; IC 14-10-1-1; IC 25

Sec. 12. (a) This section governs **relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, including** the disposition of objections under IC 4-21.5-3-29.

(b) A party who wishes to contest whether objections provide reasonable particularity shall move, in writing, for a more definite statement. The administrative law judge may rule upon a motion filed under this subsection, and any other motion filed subsequent to the entry of the nonfinal order by the administrative law judge, and enter an appropriate order (including removal of an item from the commission agenda).

(c) If objections are timely filed, the objections shall be

scheduled for argument before the commission **committee established by subsection (d)**, simultaneously with the presentation by the administrative law judge of findings, conclusions, and a nonfinal order. Unless otherwise ordered by the commission **committee**, argument shall not exceed ten (10) minutes for each party and twenty (20) minutes for each side.

**(d) For the review of objections, and to consider any other appropriate relief under IC 4-21.5-3-28 through IC 4-21.5-3-31, the chair of the commission shall appoint a committee consisting of at least three (3) members of the commission. To the extent practicable, the chair shall include persons on the committee who are licensed to practice law in Indiana. The chair shall announce the members of the committee during the first meeting of the commission held in a calendar year. The chair may supplement or modify the membership of the committee, as needed for the efficient conduct of the proceedings, during the course of the year. A member of the committee may serve through a designate where a designate is authorized under IC 14-10-1-1. A final determination by the committee is a final agency action of the commission under IC 4-21.5-1-6.**

**(e)** At least ten (10) days before oral argument is scheduled on objections filed under subsection (c), a nonparty may file a brief with the commission **committee**. A copy of the brief must be served upon each party. The brief must not be more than five (5) pages long and cannot include evidentiary matters outside the record. Unless otherwise ordered by the commission **committee**, a nonparty may also present oral argument for not more than five (5) minutes in support of the brief. If more than one (1) nonparty files a brief, the administrative law judge shall order the consolidation of briefs if reasonably necessary to avoid injustice to a party. A nonparty who has not filed a brief at least ten (10) days before oral argument is first scheduled on objections may participate in the argument upon the stipulation of the parties.

**(f)** Upon the written request of a party filed at least forty-eight (48) hours before an oral argument to consider objections, the commission **committee** shall provide the services of a stenographer or court reporter to record the argument.

**(g)** If objections are not filed, the secretary of the commission ~~as its designee under IC 4-21.5-3-28(b)~~, may affirm the findings and nonfinal order. The secretary has exclusive jurisdiction to affirm, remand, or submit to the commission for final action, any findings and nonfinal order subject to this subsection. No oral argument will be conducted under this subsection unless ordered by the secretary.

**(h)** A party may move to strike all or any part of objections, a brief by a nonparty, or another pleading under this section that the party believes does not comply with this section. The administrative law judge shall act upon a motion filed

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under this subsection by providing relief **which that** is consistent with IC 4-21.5 and this rule. (*Natural Resources Commission; 312 IAC 3-1-12; filed Feb 5, 1996; 4:00 p.m.: 19 IR 1320; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:30 p.m.: 26 IR 3323*)

*LSA Document #02-294(F)*

*Notice of Intent Published: 26 IR 417*

*Proposed Rule Published: January 1, 2003; 26 IR 1131*

*Hearing Held: January 29, 2003*

*Approved by Attorney General: May 9, 2003*

*Approved by Governor: May 23, 2003*

*Filed with Secretary of State: May 27, 2003, 12:30 p.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-322(F)

#### DIGEST

Amends 312 IAC 9-11-14, which governs wild animal possession permits, to allow an alligator snapping turtle, lawfully acquired prior to January 1, 1998, to be used for commercial purposes or for public display. Effective 30 days after filing with the secretary of state.

#### 312 IAC 9-11-14

SECTION 1. 312 IAC 9-11-14 IS AMENDED TO READ AS FOLLOWS:

#### 312 IAC 9-11-14 Maintaining a wild animal possessed under this rule

**Authority:** IC 14-22-26

**Affected:** IC 14-22

Sec. 14. (a) A person must not maintain a wild animal in a manner **which that** does any of the following:

- (1) Poses a hazard to public safety.
- (2) Poses a hazard to property of a person other than the permittee.
- (3) Harms the health of the wild animal.
- (4) Violates this article or the license under which the animal is possessed.

(b) A person must not possess a wild animal in a condition **which that** is any of the following:

- (1) Unsafe.
- (2) Unsanitary.
- (3) Constitutes maltreatment or neglect of the animal.
- (4) Allows the escape of the animal.

(c) A person must not use a wild animal in any of the following manners:

(1) For a commercial purpose unless the person is issued a commercial license by the United States Department of Agriculture **or the wild animal is an alligator snapping turtle (*Macrolemys temmincki*) lawfully acquired by the applicant prior to January 1, 1998.**

(2) For a sporting purpose.

(3) As a public display.

(d) If a Class II or Class III wild animal is used for an educational purpose, the animal must be confined in a cage that prevents contact with the public.

(e) A wild animal must be provided with fresh drinking water in clean containers on a daily basis.

(f) A swimming pool or wading pool, which is provided for the use of a wild animal, must be cleaned as needed to maintain good water quality.

(g) Surface water must be adequately drained from a cage or enclosure where a wild animal is possessed.

(h) A wild animal must be provided with food **which that** is each of the following:

- (1) Unspoiled.
- (2) Uncontaminated.
- (3) Appropriate to the dietary needs of the animal.

(i) Fecal wastes and food wastes must be removed daily from cages and stored or disposed to prevent noxious odors and insect pests. Hard floors shall be scrubbed and disinfected weekly. Large pens and paddocks with dirt floors shall be raked at least once every three (3) days and the waste removed. (*Natural Resources Commission; 312 IAC 9-11-14; filed May 12, 1997, 10:00 a.m.: 20 IR 2743; filed May 19, 2003, 9:11 a.m.: 26 IR 3324*)

*LSA Document #02-322(F)*

*Notice of Intent Published: 26 IR 814*

*Proposed Rule Published: February 1, 2003; 26 IR 1603*

*Hearing Held: February 24, 2003*

*Approved by Attorney General: May 9, 2003*

*Approved by Governor: May 14, 2003*

*Filed with Secretary of State: May 19, 2003, 9:11 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-142(F)

#### DIGEST

Adds 410 IAC 6-2.1 to clarify and update the requirements for the health, safety, and operation of public and semi-public

swimming pools, spas, and wading pools. Repeals 410 IAC 6-2. Effective 30 days after filing with the secretary of state.

**410 IAC 6-2**  
**410 IAC 6-2.1**

SECTION 1. 410 IAC 6-2.1 IS ADDED TO READ AS FOLLOWS:

**Rule 2.1. Public and Semi-Public Pools**

**410 IAC 6-2.1-1 Applicability**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 1. The definitions in this rule apply throughout this rule.** (*Indiana State Department of Health; 410 IAC 6-2.1-1; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-2 "Air gap" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 2. "Air gap" means the unobstructed vertical distance through atmosphere between the water supply inlet and the flood level rim of the receiving unit and is at least a distance equal to two (2) times the diameter of the water supply outlet or pipe.** (*Indiana State Department of Health; 410 IAC 6-2.1-2; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-3 "Bather load" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-1-3

**Sec. 3. "Bather load" means the total number of bathers within the pool enclosure.** (*Indiana State Department of Health; 410 IAC 6-2.1-3; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-4 "Breakpoint chlorination" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 4. "Breakpoint chlorination" means the point in a rising chlorine residual at which the concentration of available chlorine becomes great enough to completely oxidize all organic matter and ammonia compounds (combined chlorine) in a pool.** (*Indiana State Department of Health; 410 IAC 6-2.1-4; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-5 "Competition pool" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 5. "Competition pool" means any pool intended for use for accredited competitive aquatic events. Such pools may also be used for recreation and instruction.** (*Indiana State Department of Health; 410 IAC 6-2.1-5; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-6 "Department" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 6. "Department" means the Indiana state department of health.** (*Indiana State Department of Health; 410 IAC 6-2.1-6; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-7 "Diving pool" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 7. "Diving pool" means any pool that is designed and constructed primarily for diving and does not have a shallow end.** (*Indiana State Department of Health; 410 IAC 6-2.1-7; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-8 "mg/l" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 8. "mg/l" means milligrams per liter and is equivalent to parts per million when the medium is water.** (*Indiana State Department of Health; 410 IAC 6-2.1-8; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-9 "Person" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 9. "Person" means:**

(1) any individual, firm, partnership, company, corporation, trustee, association, municipality, county, authority, estate, or public or private entity; and

(2) its or their successors, assigns, or agents.

(*Indiana State Department of Health; 410 IAC 6-2.1-9; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-10 "Plunge pool" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 10. "Plunge pool" means a pool located at the exit end of a waterslide flume and is intended and designed to receive sliders emerging the flume.** (*Indiana State Department of Health; 410 IAC 6-2.1-10; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-11 "Pool" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 11. "Pool" means a structure, basin, chamber, or tank containing an artificial body of water for swimming, bathing, competition, relaxation, or recreational use.** (*Indiana State Department of Health; 410 IAC 6-2.1-11; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-12 "Pools with wading areas" defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 12. “Pools with wading areas” means any pool that has a portion of the shallow end with a maximum depth of twenty-four (24) inches.** (*Indiana State Department of Health; 410 IAC 6-2.1-12; filed May 19, 2003, 8:30 a.m.: 26 IR 3325*)

**410 IAC 6-2.1-13 “Public pool” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 13. “Public pool” means any pool, other than those pools defined as a semi-public pool, which is intended to be used for swimming or bathing and is operated by a concessionaire, owner, lessee, operator, or licensee, regardless of whether a fee is charged for use. Nothing in this article shall be construed as applying to any pool, constructed at a one (1) or two (2) family dwelling, and maintained by an individual for the sole use of the household and house guests.** (*Indiana State Department of Health; 410 IAC 6-2.1-13; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-14 “Public sewer” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 14. “Public sewer” means a sewage disposal facility provided by a utility, municipality, conservancy district, or regional sewer district.** (*Indiana State Department of Health; 410 IAC 6-2.1-14; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-15 “Public water supply” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 15. “Public water supply” means water supplied by a utility, municipality, conservancy district, regional water district, or water corporation.** (*Indiana State Department of Health; 410 IAC 6-2.1-15; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-16 “Sanitary facilities” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 16. “Sanitary facilities” means flush toilets, hand washing lavatories, and showers.** (*Indiana State Department of Health; 410 IAC 6-2.1-16; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-17 “Semi-public pool” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 17. “Semi-public pool” means any pool that is intended to be used for swimming or bathing and is operated solely for and in conjunction with:**

- (1) schools, universities, and colleges;
- (2) hotels, motels, apartments, condominiums, bed and breakfasts, or similar lodgings;

- (3) camps or mobile home parks; or
- (4) membership clubs or associations.

**Nothing in this article shall be construed as applying to any pool, constructed at a one (1) or two (2) family dwelling, and maintained by an individual for the sole use of the household and house guests.** (*Indiana State Department of Health; 410 IAC 6-2.1-17; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-18 “Spa” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 18. “Spa” means a pool designed for recreational and/or therapeutic use, which is not drained, cleaned, and refilled after each use. The term may include, but is not limited to:**

- (1) hydrojet circulation;
- (2) hot water;
- (3) cold water;
- (4) mineral baths;
- (5) air induction systems; or
- (6) any combination thereof.

(*Indiana State Department of Health; 410 IAC 6-2.1-18; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-19 “Swimming pool slide” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 19. “Swimming pool slide” means any device used to enter a pool by sliding down an inclined plane or equipment similar to a playground slide.** (*Indiana State Department of Health; 410 IAC 6-2.1-19; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-20 “Turnover rate” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 20. “Turnover rate” means the period of time, expressed in hours, required to circulate a volume of water equal to the maximum pool-water capacity through the pool-water treatment system.** (*Indiana State Department of Health; 410 IAC 6-2.1-20; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-21 “Wading pool” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 21. “Wading pool” means a pool used for bathing that has a maximum depth of two (2) feet.** (*Indiana State Department of Health; 410 IAC 6-2.1-21; filed May 19, 2003, 8:30 a.m.: 26 IR 3326*)

**410 IAC 6-2.1-22 “Waterslide” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 22. “Waterslide”** means a recreational ride that is a sloped trough-like or tubular structure using water as a lubricant and method of regulating rider velocity and terminates in a plunge pool, swimming pool, or a specifically designed deceleration structure. *(Indiana State Department of Health; 410 IAC 6-2.1-22; filed May 19, 2003, 8:30 a.m.: 26 IR 3326)*

**410 IAC 6-2.1-23 “Wave pool” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 23. “Wave pool”** means any pool having a bottom sloped upward from the deep end to the surface at the shallow end with equipment installed at the deep end to create wave motions in the water. *(Indiana State Department of Health; 410 IAC 6-2.1-23; filed May 19, 2003, 8:30 a.m.: 26 IR 3327)*

**410 IAC 6-2.1-24 “Zero depth pool” defined**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 24. “Zero depth pool”** means any pool with a bottom sloped upward from the deep end to the surface level at the shallow end. *(Indiana State Department of Health; 410 IAC 6-2.1-24; filed May 19, 2003, 8:30 a.m.: 26 IR 3327)*

**410 IAC 6-2.1-25 Administration of rule**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 25. This rule may be administered by the department or by the local health officer through their authorized agent.** *(Indiana State Department of Health; 410 IAC 6-2.1-25; filed May 19, 2003, 8:30 a.m.: 26 IR 3327)*

**410 IAC 6-2.1-26 New construction**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 26. Public and semi-public pools shall be designed, constructed, maintained, and modified in accordance with 675 IAC 20.** *(Indiana State Department of Health; 410 IAC 6-2.1-26; filed May 19, 2003, 8:30 a.m.: 26 IR 3327)*

**410 IAC 6-2.1-27 Water supply**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 27. (a)** An adequate and convenient supply of potable water that meets the provisions of 327 IAC 8-2 shall be provided at plumbing fixtures used for drinking, cooking, dishwashing, hand washing, showering, and pool water.

**(b)** Wells shall be constructed, installed, and located in accordance with 327 IAC 8-2 and 312 IAC 13.

**(c)** A public water supply shall be exclusively used if

available within a reasonable distance. A water supply, properly located and constructed, shall be provided if a public water supply is not available.

**(d)** The construction and location of wells with less than fifteen (15) service connections, or serving less than twenty-five (25) people, shall comply with Bulletin S.E. 13. All other wells shall comply with 327 IAC 8-2.

**(e)** The water supply and distribution system shall have the capacity to deliver a minimum water pressure of twenty (20) pounds per square inch to all water connections during periods of peak water usage. The water supply shall have a capacity to meet total water demands. If a well or pump cannot meet a peak or daily demand, a sufficient useable storage capacity shall be provided.

**(f)** The casing pipe of a well shall extend no less than twenty-four (24) inches above floor level, finish grade, or the highest flood level on record.

**(g)** Water supplies shall have no wellhead, well casing, pump, pumping machinery, exposed pressure tanks, or suction piping located in any pit, room, or enclosure that does not have free drainage by gravity to the ground surface at all times.

**(h)** Stop-and-waste valves (including unapproved frost-proof hydrants) or other devices that would allow aspiration or backflow of contaminated water into the potable system shall not be used.

**(i)** All portions of the water distribution system serving pools, and auxiliary facilities, shall be protected against backflow and backsiphonage. Water introduced into the pool, either directly or through the recirculation system, shall be supplied through an air gap or in accordance with 675 IAC 1. *(Indiana State Department of Health; 410 IAC 6-2.1-27; filed May 19, 2003, 8:30 a.m.: 26 IR 3327)*

**410 IAC 6-2.1-28 Sewage disposal**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 28. (a)** The sewage disposal system shall be adequate to serve the facility, including the bathhouse, locker room, pool water treatment equipment, deck drains, and related accommodations.

**(b)** Pool water and filter backwash water may not discharge to a ditch, stream, or lake, except in accordance with 327 IAC 2-1.

**(c)** All pool gutters, recirculation systems, and overflows shall discharge through an air gap to preclude the possibility of a backup of sewage or waste into the pool or pool piping system.

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(d) All pool sumps, deck drainage systems, and other drainage fixtures that discharge to a sewer or storm drain shall be properly trapped and vented to prevent sewer gases and odors from reaching the pool area.

(e) All sewage, including gray water, shall be disposed of via a connection to a public sewer, if available within a reasonable distance. If a public sewer is not available within a reasonable distance from the pool, sewage disposal must comply with 410 IAC 6-10, Bulletin S.E. 11, Bulletin S.E. 13, or applicable rules of the Indiana department of environmental management. (*Indiana State Department of Health; 410 IAC 6-2.1-28; filed May 19, 2003, 8:30 a.m.: 26 IR 3327*)

### 410 IAC 6-2.1-29 Sanitary facilities

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 29. (a) The ratio and location of sanitary facilities for public and semi-public pools shall be in accordance with 675 IAC 20-2-27.

(b) Sanitary facilities are not required poolside at semi-public pools if sanitary facilities are available to pool patrons within three hundred (300) feet of the pool enclosure.

(c) Toilet paper and covered waste receptacles shall be provided for toilet facilities.

(d) Soap, covered waste receptacles, and paper towels or electrical hand-drying units shall be provided at the lavatories.

(e) Hot and cold water shall be provided through a mixing faucet.

(f) When showers are provided, the water temperature shall be at least ninety (90) degrees Fahrenheit and shall not exceed one hundred twenty (120) degrees Fahrenheit. An approved hot water control valve shall be installed on the hot water heater to ensure safe water temperature.

(g) All sanitary facilities shall be maintained in a safe and sanitary condition. (*Indiana State Department of Health; 410 IAC 6-2.1-29; filed May 19, 2003, 8:30 a.m.: 26 IR 3328*)

### 410 IAC 6-2.1-30 Pool water chemistry

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 30. (a) All pools, when open for use, shall be continuously and automatically disinfected with a chemical that imparts an easily measured, free residual.

(b) A free residual of the disinfectant chemical shall be maintained throughout the pool at concentrations in accordance with the following:

POOL TYPE	CHLORINE		BROMINE	
	Minimum	Maximum	Minimum	Maximum
Wading pools	3.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Spa pools	2.0 ppm	7.0 ppm	4.0 ppm	10 ppm
Waterslide plunge pools	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm
Wave pools	2.0 ppm	7.0 ppm	3.0 ppm	10 ppm
All other pools	1.0 ppm	7.0 ppm	2.0 ppm	10 ppm

(c) Whenever the residual disinfectant falls below the minimum concentration required or exceeds the maximum concentration allowed, the pool shall be cleared and kept free of bathers until disinfectant residuals are within the acceptable range.

(d) The department may accept other disinfecting materials or methods when such materials or methods have been demonstrated:

- (1) to provide a residual effect equivalent to halogens;
- (2) to be easily measured under conditions of use;
- (3) not to be dangerous to public health;
- (4) not to create objectionable physiological effects; or
- (5) not to impart toxic properties to the water.

(e) The pool water shall be superchlorinated to breakpoint or superoxidized with a nonchlorine oxidizer, when the pool test kit reveals a combined chlorine (chloramine) concentration of five-tenths (0.5) parts per million (ppm) or greater.

(f) Chlorinated isocyanurates or stabilized chlorine shall not be used for breakpoint chlorination.

(g) The pool shall be closed and remain closed during breakpoint chlorination until the chlorine concentration drops to the maximum level referenced in subsection (b).

(h) If a nonchlorine oxidizer is used to superoxidize, the pool shall be closed and shall remain closed in accordance with the specifications on the product label.

(i) A test kit shall be readily available for use by the pool operator, with reagents replaced according to manufacturer's requirements, and meet the following:

- (1) For pools that use chlorine as a disinfectant, a test kit shall be used that covers a minimum range of zero (0.0) ppm to five (5.0) ppm or higher. The test kit must be in increments of five-tenths (0.5) ppm and be capable of measuring total chlorine.
- (2) Orthotolidine may not be used as the disinfectant testing reagent.
- (3) For pools that use a disinfectant other than chlorine, the test kit shall have the range and accuracy proportionate to the range required for chlorine test kits.
- (4) A pH test kit accurate to the nearest two-tenths (0.2) pH unit and covering a minimum range of seven (7.0) to

eight (8.0) pH units shall be used.

(5) When a cyanurate is used as a chlorine stabilizer, the test kit shall be capable of measuring cyanuric acid concentrations.

(6) A test kit capable of measuring total alkalinity shall be used.

(j) If chlorinated isocyanurate or cyanuric acid stabilizers are used in a pool, the concentration shall not exceed sixty (60) ppm. When the maximum allowable cyanuric acid concentration is exceeded, appropriate measures shall be taken to lower the concentrations to the required range.

(k) Chlorinated isocyanurates and cyanuric acid stabilizers shall not be used in any indoor pool.

(l) Only in pools where chlorine is used as the disinfectant can cyanuric acid be used as a stabilizer.

(m) The water in a pool shall have a pH of not less than seven and two-tenths (7.2) and not more than seven and eight-tenths (7.8).

(n) The alkalinity of the water in pools shall be at least eighty (80) ppm as titrated to the methyl orange endpoint.

(o) Pool water shall be tested for the following:

(1) pH and disinfectant residuals daily before the pool is open for use and at least one (1) other time during the hours of pool use.

(2) Combined chlorine at least twice a week when chlorine is used.

(3) Total alkalinity at least once a week.

(4) Cyanuric acid, when it is used, at least once a week.

(p) Spa water shall be tested for pH and disinfectant residuals daily before the spa is open for use and at least two (2) other times during the hours of spa use for the following:

(1) Combined chlorine concentration, when chlorine is used, at least twice a week.

(2) Total alkalinity at least once a week.

(q) All results shall be recorded.

(r) If electronic monitoring devices are used, the accuracy of the device must be checked as required by the manufacturer or compared for accuracy at least once per week with a test kit.

(s) The pool shall be closed for a period equal to at least one (1) hour following the manual addition of chemicals.

(t) Any chemical used to treat the water in a pool must be used in accordance with the product label directions. (*Indiana State Department of Health; 410 IAC 6-2.1-30; filed May 19, 2003, 8:30 a.m.: 26 IR 3328*)

#### 410 IAC 6-2.1-31 Water quality standards

Authority: IC 16-19-3-4

Affected: IC 16-19-3

Sec. 31. (a) At all times, the water in a pool shall have sufficient clarity so that the main drain or a black disc, six (6) inches in diameter placed at the deepest part of the pool, is readily visible from the deck.

(b) The water temperature in spas may not exceed one hundred four (104) degrees Fahrenheit.

(c) One (1) water sample must be collected weekly from each pool and submitted for bacteriological examination. Samples may not be collected from any portion of the recirculation system.

(d) Sampling shall start at least one (1) week prior to the opening of the pool.

(e) Bacteriological examinations performed on each sample shall include the heterotrophic thirty-five (35) degree Centigrade plate count, and a total coliform test using either the:

(1) multiple tube fermentation test;

(2) membrane filter test; or

(3) one hundred (100) milliliter presence/absence test.

Tests shall be performed by a state-approved laboratory in accordance with the procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater (APHA), Part 9000, Microbiological Examination of Water, published in 1992.

(f) All water sample reports must be submitted to the local health department.

(g) No two (2) consecutive samples or three (3) samples collected in a six (6) week period shall demonstrate the following:

(1) Contain more than two hundred (200) bacteria colonies per milliliter as determined by the heterotrophic thirty-five (35) degree Centigrade plate count.

(2) Test positive (confirmed test) for coliform organisms in any of the five (5) to ten (10) milliliter portions of a sample when the multiple tube fermentation tube test is used.

(3) Test positive for more than one (1) coliform organism per fifty (50) milliliters when the membrane filter test is used.

(4) Show the presence of any coliform when the one hundred (100) milliliter presence/absence test is used.

(h) Failure to collect and analyze weekly water samples during the period that a pool is open for use is considered an unsatisfactory report for the applicable week.

(i) When the pool must be closed due to an unsatisfactory

sample report, an additional water sample must be submitted to an approved laboratory. The pool may be reopened upon receipt of a satisfactory report. (*Indiana State Department of Health; 410 IAC 6-2.1-31; filed May 19, 2003, 8:30 a.m.: 26 IR 3329*)

**410 IAC 6-2.1-32 Recirculation**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 32. (a) The recirculation system shall be maintained in accordance with the following:

- (1) The turnover rate for spa pools shall be once every half hour.
- (2) For pools, except spas, built before September 13, 1989, the turnover rate shall be the lesser of the following times:
  - (A) Eight (8) hours.
  - (B) The maximum pool capacity in gallons, divided by the maximum bather load, divided again by one hundred eight (108) gallons per hour per bather.

(b) In all other public pools built after September 13, 1989, the turnover rate shall be as follows:

POOL TYPE	TURNOVER RATE
Wading pools	1 hour
Wave pools	2 hours
Zero depth pools	2 hours
Pools with wading areas	2 hours
Competition pools	6 hours
Diving pools	12 hours
All other pools	6 hours

(c) A suitable means shall be provided to measure the flow of water through the pool water recirculating system.

(d) Footbaths are prohibited. (*Indiana State Department of Health; 410 IAC 6-2.1-32; filed May 19, 2003, 8:30 a.m.: 26 IR 3330*)

**410 IAC 6-2.1-33 Gas chlorine and chemical storage**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 33. (a) The following shall be provided when chlorine gas is used:

- (1) Chlorine gas equipment shall be operated and maintained in accordance with standards and recommendations of The Chlorine Institute, Inc., Pamphlet 82, (1999). A copy of said standards must be kept on the premises.
- (2) A self-contained positive pressure demand breathing apparatus, with air supply tank, designed for use in a chlorine atmosphere.
- (3) The self-contained breathing apparatus shall be kept in a closed cabinet, accessible without a key and located outside of the room in which the chlorinator or chlorine

cylinders are located.

(4) Pool equipment operating staff shall be trained in the use of the self-contained breathing apparatus and shall maintain documentation of that training.

(5) Each pool operator shall have a written emergency plan of action for chlorine gas leaks. The emergency plan shall be communicated to all employees, posted in a conspicuous place, and be practiced with annual drills.

(b) All chemicals and items in the chemical storage room shall be stored at least six (6) inches above the floor to allow for flushing the area in the case of a spill.

(c) All chemicals shall be stored in accordance with manufacturer recommendations. (*Indiana State Department of Health; 410 IAC 6-2.1-33; filed May 19, 2003, 8:30 a.m.: 26 IR 3330*)

**410 IAC 6-2.1-34 Lifesaving and safety equipment**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 34. (a) At least one (1) unit of lifesaving equipment shall be provided at each pool and shall consist of the following:

- (1) A life pole, or shepherd's crook type of pole, with blunted ends and a minimum length of twelve (12) feet.
- (2) A ring buoy, having a minimum outside diameter of twenty (20) inches, with one-fourth (1/4) inch diameter rope equal in length to the width of the pool and not to exceed forty-five (45) feet in length.

(b) One (1) spine board, with straps and head immobilizer, shall be available for each pool enclosure, except for spas and wading pools.

(c) For pools with a surface area of two thousand (2,000) square feet or more, a rescue tube or ring buoy shall be provided for each lifeguard on duty.

(d) A first aid kit and two (2) blankets shall be provided within each pool enclosure. The first aid kit shall be kept filled and ready for use whenever the pool is open for use and shall be equipped with the following:

- (1) One (1) unit bandage scissors.
- (2) One (1) unit tweezers.
- (3) Four (4) units of adhesive bandages, one (1) inch by three (3) inches.
- (4) Two (2) units of two (2) inch bandage compress.
- (5) One (1) unit three (3) inch bandage compress.
- (6) One (1) unit four (4) inch bandage compress.
- (7) Two (2) units of absorbent gauze pad, three (3) inches by three (3) inches.
- (8) One (1) unit of gauze compress, eighteen (18) inches by thirty-six (36) inches.
- (9) Two (2) units of large compress, twenty-four (24)

- inches by seventy-two (72) inches.
- (10) Two (2) units of four (4) inch gauze roller bandages.
- (11) Two (2) units of triangular bandages.
- (12) Two (2) units of instant ice packs.
- (13) Two (2) units of disposable gloves. and
- (14) One (1) unit of adhesive tape.

(e) A telephone shall be located within two hundred (200) feet of the pool enclosure and must be available for emergency use with the following emergency telephone numbers posted within view:

- (1) 911.
- (2) Ambulance or rescue unit.
- (3) Hospital.
- (4) Police station.
- (5) Fire department.

(f) Depth markings of pools shall conform to 675 IAC 20-2.

(g) A removable buoyed transition line, anchored at each end, shall separate the shallow area defined as five (5) feet or less, from the deeper pool area, except when the pool is being used for organized activities.

(h) One (1) unit of lifesaving equipment, in good repair, ready for use, and stored within twenty (20) feet of the pool, shall be provided for each two thousand (2,000) square feet of pool water surface, except spas and wading pools. (*Indiana State Department of Health; 410 IAC 6-2.1-34; filed May 19, 2003, 8:30 a.m.: 26 IR 3330*)

**410 IAC 6-2.1-35 Lifeguards**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 35. (a) A qualified lifeguard is required for all public pools. A qualified lifeguard is required for all semi-public pools with a surface area of two thousand (2,000) square feet or more. Lifeguards must be on duty at poolside at all times when the pools are open for use.

(b) A qualified lifeguard or attendant must be stationed continuously at a waterslide and control its use.

(c) When lifeguards are required, they shall be provided as follows:

BATHER LOAD*	MINIMUM NUMBER OF LIFEGUARDS
0-75	1
76-150	2
151-225	3
226-300	4
301-375	5

\*When the bather load exceeds three hundred seventy-five (375), one (1) lifeguard shall be provided for each additional seventy-five (75) bathers or fraction thereof.

(d) Lifeguards shall possess a current nationally recognized certification in each of the following:

- (1) Lifeguard training.
- (2) Adult/infant/child cardiopulmonary resuscitation.
- (3) First aid.

(e) The operators of all public pools shall provide annual lifeguard orientation and training that includes training in bloodborne pathogens. New guards shall also receive training when they are employed.

(f) When on patron surveillance duty, lifeguards shall not perform any other duties and shall not be in the water except in the line of duty.

(g) Lifeguards on duty shall be identified with distinguishing equipment, apparel, or emblems.

(h) Lifeguard platforms or chairs shall be elevated five (5) to six (6) feet above the deck, placed in locations that minimize sun glare on the water, and in positions that will allow complete visual coverage of the pool and the pool bottom within a field of view no greater than forty-five (45) degrees on either side of a line extending straight out from the chair. (*Indiana State Department of Health; 410 IAC 6-2.1-35; filed May 19, 2003, 8:30 a.m.: 26 IR 3331*)

**410 IAC 6-2.1-36 Warning signs**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

Sec. 36. (a) Warning signs shall be provided in legible letters at least four (4) inches high as follows:

- (1) A sign warning "DANGER-HAZARDOUS CHEMICALS" shall be posted on or adjacent to the entrance to the pool chemical feed and chemical storage rooms.
- (2) Whenever the pool area is open for use and no lifeguard service is provided, warning signs shall be placed in plain view at the entrances and inside the pool area that state "Warning-No Lifeguard on Duty". In addition, the signs shall also state in clearly legible letters at least two (2) inches high, "No Swimming Alone. Children Under 14 Years of Age and Nonswimmers Shall Not Use the Pool Unless Accompanied by a Responsible Adult."
- (3) When the pool is not open for use, a sign shall be posted stating "POOL CLOSED".
- (4) A sign stating "No Diving" shall be posted at nondiving areas and at portions of the pool which are five (5) feet deep or less. "No Diving" signs are not required at spas or wading pools.

(b) The following user sanitation and safety rules shall be posted on signs with letters at least one (1) inch high and within the pool enclosure:

- (1) Anyone who has or has had diarrhea in the past two
- (2) weeks shall not use the pool.

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(2) Anyone who has an area of exposed subepidermal tissue, open blisters, cuts, etc., is advised not to use the pool.

(3) All persons shall take a cleansing shower before using the pool. A bather leaving the pool to use the toilet shall take another cleansing shower before returning to the pool enclosure.

(4) Spitting, spouting of water, blowing the nose, and similar behavior in the pool is prohibited.

(5) No running or rough play is permitted in the pool, on the runways, on diving boards, on floats, on platforms, in dressing rooms, or in showers.

(6) Street clothes are not allowed in the pool.

(c) In addition to the requirements of subsection (b), spa pools shall have the following posted:

(1) Pregnant women, small children, or persons with heart disease, diabetes, high blood pressure, or low blood pressure should not enter the spa except under advice of a physician.

(2) Avoid use while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or raise or lower blood pressure.

(3) Exposure greater than fifteen (15) minutes may result in drowsiness, nausea, or fainting.

(d) In addition to the requirements of subsection (b), wading pools shall have the following posted:

(1) All diaper-aged children shall use plastic pants with tight fitting elastic at the legs and waist, or swim diapers.

(2) Do not change diapers at poolside.

(e) The following shall be posted near the entrance of swimming pool slides:

(1) One (1) rider at a time. Wait until the landing area is clear before entering the slide.

(2) Slide in a sitting position or on the back only.

(3) Do not attempt to stop on the slide.

(4) Leave the plunge area immediately.

(5) Warning: Water depth is \_\_\_\_ feet.

(f) The following shall be posted near the entrance of the water slide:

(1) Only one (1) rider at a time.

(2) Follow the instructions of the attendant and/or lifeguard.

(3) No running, standing, kneeling, rotating, tumbling, or stopping in the flumes.

(4) No diving from a flume.

(5) Leave the plunge pool promptly after entering.

(Indiana State Department of Health; 410 IAC 6-2.1-36; filed May 19, 2003, 8:30 a.m.: 26 IR 3331)

### 410 IAC 6-2.1-37 Cleaning

Authority: 16-19-3-4

Affected: 16-19-3

Sec. 37. (a) Visible dirt on the bottom and walls of the pool shall be removed at least every twenty-four (24) hours or more frequently if required.

(b) Scum, oils, or floating matter on the water surface of a pool shall be removed continuously by skimming, flushing, or other effective means when the pool is open for use.

(Indiana State Department of Health; 410 IAC 6-2.1-37; filed May 19, 2003, 8:30 a.m.: 26 IR 3332)

### 410 IAC 6-2.1-38 Records of operation

Authority: IC 16-19-3-4

Affected: IC 16-19-3

Sec. 38. (a) Operating records shall be logged daily, kept for a minimum of one (1) year, and be available upon request by the department. The operating records must contain the following:

(1) Disinfectant residuals and combined chlorine concentrations.

(2) pH readings.

(3) Volume of fresh water added.

(4) Operating periods of pool water recirculation pumps and filters and the corresponding rate of flow meter readings.

(5) Amounts of chemicals used.

(6) Maintenance and malfunctioning of equipment.

(b) An injury/incident report using a form prescribed by the department shall be made for each occurrence that:

(1) results in death;

(2) requires resuscitation;

(3) results in transportation to a hospital or other facility for medical treatment; or

(4) results in an illness connected to the water quality at the pool.

(c) The injury/illness report shall be forwarded to the department within ten (10) days. (Indiana State Department of Health; 410 IAC 6-2.1-38; filed May 19, 2003, 8:30 a.m.: 26 IR 3332)

### 410 IAC 6-2.1-39 Visitor and spectator areas at public pools

Authority: IC 16-19-3-4

Affected: IC 16-19-3

Sec. 39. There shall be a separation between the spaces used by visitors and spectators at a public pool and those spaces used by bathers. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if a separate area is provided that is segregated from the space used by the bathers by a barrier or wall at least twenty-nine (29) inches high. (Indiana State Department of Health; 410 IAC 6-2.1-39; filed May 19, 2003, 8:30 a.m.: 26 IR 3332)

**410 IAC 6-2.1-40 Food and drink area**

Authority: 16-19-3-4  
Affected: 16-19-3

**Sec. 40.** Food and drink may be permitted only in the visitor or spectator area of a public pool, or in a similarly separated snack area for bathers. (*Indiana State Department of Health; 410 IAC 6-2.1-40; filed May 19, 2003, 8:30 a.m.: 26 IR 3333*)

**410 IAC 6-2.1-41 Multi-use suits and towels**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 41. (a)** After each use, all multi-use suits and towels, furnished to bathers by the operator of a pool, shall be washed thoroughly with detergent and hot water of at least one hundred seventy-five (175) degrees Fahrenheit or laundered in warm soapy water containing a chlorine concentration of at least fifty (50) parts per million. Suits and towels must be rinsed and thoroughly dried after laundering.

**(b)** Clean suits and towels must be kept strictly separated from those that have been used and are unlaundered. (*Indiana State Department of Health; 410 IAC 6-2.1-41; filed May 19, 2003, 8:30 a.m.: 26 IR 3333*)

**410 IAC 6-2.1-42 Garbage and refuse disposal**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 42.** Garbage and refuse shall be collected, stored, and disposed so that the pool area is kept clean and litter free. (*Indiana State Department of Health; 410 IAC 6-2.1-42; filed May 19, 2003, 8:30 a.m.: 26 IR 3333*)

**410 IAC 6-2.1-43 Reasons for closure**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 43.** A pool shall be closed when any of the following occurs:

- (1) Failure to meet bacteriological requirements of section 31(f) of this rule.
- (2) Failure to meet disinfectant concentrations of section 30(b) of this rule.
- (3) Failure to meet the water clarity requirements of section 31(a) of this rule.
- (4) The grate on the main drain is missing or broken.
- (5) Failure to meet lifeguard requirements of section 35 of this rule.
- (6) A pump, filter, or disinfectant feeder is nonoperational.
- (7) A nonsolid fecal accident.
- (8) The spa water temperature exceeds one hundred four (104) degrees Fahrenheit.

(*Indiana State Department of Health; 410 IAC 6-2.1-43; filed May 19, 2003, 8:30 a.m.: 26 IR 3333*)

**410 IAC 6-2.1-44 Fecal accidents**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 44. (a)** In the event that a solid stool is identified in the pool or spa water, the following steps are required:

- (1) The pool shall be cleared of all patrons.
- (2) The solid fecal material shall be removed. If a vacuum is used for this purpose, the waste shall be discharged to the sanitary sewer and not through the pool filtration system. All equipment used to remove the fecal material shall be sanitized with a solution of twenty (20) parts per million (ppm) chlorine. The solution shall be prepared fresh.
- (3) The free chlorine/bromine level shall be tested.
- (4) pH shall be maintained between 7.2 and 7.8.
- (5) When the required level of disinfectant concentrations fail to meet the requirements of section 30(b) of this rule, the pool shall remain closed until the required levels of free disinfectant are present in the pool water as measured at poolside.
- (6) When the required level of disinfectant concentrations are met, the pool may reopen.

**(b)** In the event that a nonsolid stool is identified in the pool or spa water, the following steps are required:

- (1) Immediately clear the pool of all patrons and close all affected pools or spas operating on a common filtration system and keep closed during the sanitization procedure.
- (2) Raise and maintain the free chlorine residual in the pool water for the length of time necessary to attain a "9600 contact time" CT value equivalent, or completely drain the pool to a sanitary sewer or approved sewage disposal system.
- (3) When the pool is drained, sanitize all surfaces with a chlorine solution of at least twenty (20) ppm.
- (4) When the pool is disinfected without draining, continuously operate the recirculation/filtration system during the sanitization/contact period time.
- (5) Filters shall be backwashed to waste and filter material replenished as necessary.
- (6) When the sanitizing contact period is completed, the pool may be reopened if:
  - (A) the excess free chlorine levels are reduced to the maximum allowed in section 30(b) of this rule;
  - (B) the pH is balanced as needed;
  - (C) the filter is recharged as needed; and
  - (D) the circulation system is operating.

(*Indiana State Department of Health; 410 IAC 6-2.1-44; filed May 19, 2003, 8:30 a.m.: 26 IR 3333*)

**410 IAC 6-2.1-45 Right of entry**

Authority: IC 16-19-3-4  
Affected: IC 16-19-3

**Sec. 45.** The department or the local health officer may

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enter public or private property at reasonable times upon presentation of credentials to do any of the following:

- (1) Inspect facilities, equipment, or records.
- (2) Investigate complaints.
- (3) Conduct tests.
- (4) Collect samples to obtain information required under this rule.
- (5) Determine whether any person is subject to, or in violation of, this rule.

(Indiana State Department of Health; 410 IAC 6-2.1-45; filed May 19, 2003, 8:30 a.m.: 26 IR 3333)

### 410 IAC 6-2.1-46 Enforcement

Authority: IC 16-19-3-4

Affected: IC 4-21.5-3-8; IC 16-19-3; IC 16-20-1-23

Sec. 46. The department may commence an action under IC 4-21.5-3-8 against a pool operator who:

- (1) fails to comply with this rule; or
- (2) interferes with or obstructs the department or its designated agent in the performance of duties pursuant to IC 16-20-1-23.

(Indiana State Department of Health; 410 IAC 6-2.1-46; filed May 19, 2003, 8:30 a.m.: 26 IR 3334)

### 410 IAC 6-2.1-47 Incorporation by reference

Authority: IC 16-19-3-4

Affected: IC 16-19-3

Sec. 47. The following are hereby incorporated by reference as a part of this rule:

- (1) Indiana State Department of Health Bulletin S.E. 11. Copies may be obtained by a mailed request to Indiana State Department of Health, 2 North Meridian Street, Indianapolis, Indiana 46204.
- (2) Indiana State Department of Health Bulletin S.E. 13. Copies may be obtained by a mailed request to Indiana State Department of Health, 2 North Meridian Street, Indianapolis, Indiana 46204.
- (3) Standard Methods for the Examination of Water and Wastewater (APHA), Part 9000, Microbiological Examination of Water, eighteenth edition, 1992, is incorporated by this rule. Copies may be obtained from the American Public Health Association, Inc., 1015 15<sup>th</sup> Street N.W., Washington, D.C. 20005.
- (4) The standards of the Chlorine Institute, Inc., Pamphlet 82, July, 1999. Two (2) copies of these standards are available for reference at the department. Copies may be obtained from the Chlorine Institute, Inc., 2000 L Street N. W., Suite 506, Washington, D.C. 20036.

(Indiana State Department of Health; 410 IAC 6-2.1-47; filed May 19, 2003, 8:30 a.m.: 26 IR 3334)

SECTION 2. THE FOLLOWING ARE REPEALED: 410 IAC 6-2-0.1; 410 IAC 6-2-0.2; 410 IAC 6-2-0.3; 410 IAC 6-2-0.4; 410 IAC 6-2-0.5; 410 IAC 6-2-0.6; 410 IAC 6-2-0.7; 410

IAC 6-2-1; 410 IAC 6-2-1.1; 410 IAC 6-2-1.2; 410 IAC 6-2-1.3; 410 IAC 6-2-1.4; 410 IAC 6-2-1.5; 410 IAC 6-2-2; 410 IAC 6-2-3; 410 IAC 6-2-4; 410 IAC 6-2-5; 410 IAC 6-2-6; 410 IAC 6-2-7; 410 IAC 6-2-8; 410 IAC 6-2-9; 410 IAC 6-2-10; 410 IAC 6-2-11; 410 IAC 6-2-13.

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## TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-266(F)

### DIGEST

Adds 410 IAC 7-22 to establish standards for the certification of food handlers for food establishments and the imposition of penalties for violations. Effective 30 days after filing with the secretary of state.

### 410 IAC 7-22

SECTION 1. 410 IAC 7-22 IS ADDED TO READ AS FOLLOWS:

#### Rule 22. Certification of Food Handlers

### 410 IAC 7-22-1 Applicability

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 1. The definitions in this rule apply throughout this rule. (Indiana State Department of Health; 410 IAC 7-22-1; filed May 19, 2003, 8:50 a.m.: 26 IR 3334)

### 410 IAC 7-22-2 "Accreditation" defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 2. "Accreditation" means that an accrediting organization has verified a food safety certification examination meets the standards established by the Conference for Food Protection. The food safety certification examination shall be reviewed by an independent accrediting organization to verify compliance with standards established by the Conference for Food Protection. (Indiana State Department of Health; 410 IAC 7-22-2; filed May 19, 2003, 8:50 a.m.: 26 IR 3334)

**410 IAC 7-22-3 “Accredited certification examination” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 3. “Accredited certification examination” means a food protection certification examination that meets the criteria established by the Conference for Food Protection and has met the Conference for Food Protection standards, such as the American National Standards Institute standards for such programs. (Indiana State Department of Health; 410 IAC 7-22-3; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-4 “Accrediting organization” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 4. “Accrediting organization” means an independent organization, such as the American National Standards Institute, that determines whether a food protection certification examination meets the standards established by the Conference for Food Protection. (Indiana State Department of Health; 410 IAC 7-22-4; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-5 “Accredited testing service” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 5. “Accredited testing service” means a testing service that meets the standards established by the Conference for Food Protection and has met the Conference for Food Protection and the American National Standards Institute standards for such examinations. (Indiana State Department of Health; 410 IAC 7-22-5; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-6 “Certification document” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 6. “Certification document” means a certificate, letter, or other document verifying the individual has passed an accredited examination given by an accredited testing service. (Indiana State Department of Health; 410 IAC 7-22-6; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-7 “Certified food handler” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 7. “Certified food handler” means a food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the department. (Indiana State Department of Health; 410 IAC 7-22-7; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-8 “Department” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 8. “Department” means the Indiana state department of health. (Indiana State Department of Health; 410 IAC 7-22-8; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-9 “Food establishment” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 9. “Food establishment” means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. (Indiana State Department of Health; 410 IAC 7-22-9; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-10 “Food handler” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 10. “Food handler” means an individual who is an owner, an operator, a manager, or an employee of a food establishment and is responsible for or oversees the storage, preparation, display, or serving of food to the public. (Indiana State Department of Health; 410 IAC 7-22-10; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-11 “Person-in-charge” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 11. “Person-in-charge” means an individual present at a food establishment who is responsible for the food operation at the time of inspection. (Indiana State Department of Health; 410 IAC 7-22-11; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-12 “Prepackaged food” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 12. “Prepackaged food” means prior to service and/or receipt of a food, the food is bottled, canned, cartoned, securely wrapped, whether packaged in a food establishment or a food processing plant. Prepackaged does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer. (Indiana State Department of Health; 410 IAC 7-22-12; filed May 19, 2003, 8:50 a.m.: 26 IR 3335)**

**410 IAC 7-22-13 “Recertification” defined**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 13. “Recertification” means requiring a precertified individual to pass an accredited certification examination**

within five (5) years from the date of issue of their most recent certificate issue date or complying with the accredited testing service's written policy for recertification. (*Indiana State Department of Health; 410 IAC 7-22-13; filed May 19, 2003, 8:50 a.m.: 26 IR 3335*)

#### 410 IAC 7-22-14 "Regulatory authority" defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

**Sec. 14. "Regulatory authority" means the local or state body or authorized representative having jurisdiction over a food establishment.** (*Indiana State Department of Health; 410 IAC 7-22-14; filed May 19, 2003, 8:50 a.m.: 26 IR 3336*)

#### 410 IAC 7-22-15 Certified food handler requirements

Authority: IC 16-42-5.2-13

Affected: IC 12-10-15; IC 16-21; IC 16-28; IC 16-42-5.2; IC 23-2-4

**Sec. 15. (a)** A corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

**(b)** After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler. A food handler's certification must be recognized by the Conference for Food Protection or an equivalent nationally recognized certification examination as determined by the department.

**(c)** A food establishment shall have at least one (1) certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation. It shall be the responsibility of the certified food handler to provide the certificate, letter, or document for verification of passing the examination.

**(d)** A food establishment that begins operation or changes ownership shall comply with section 15(b) of this rule not later than six (6) months after beginning operation or changing ownership.

**(e)** If a food establishment does not have a certified food handler because the certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 15(b) of this rule not later than three (3) months after the termination date of the previous certified food handler.

**(f)** If more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler is required for the food establishments.

**(g)** The certified food handler requirement does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

(1) Heating or serving precooked hot dog or sausage

products, popcorn, nachos, pretzels, or frozen pizza.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages or ice.

(4) Grinding coffee beans.

(5) Packaged foods that are not potentially hazardous foods in accordance with the rules adopted by the executive board.

(6) Heating when it is the only step for a bakery product.

(7) Providing prepackaged food in its original package.

**(h)** The certified food handler requirement does not apply to the following institutions:

(1) Hospitals licensed under IC 16-21.

(2) Health facilities licensed under IC 16-28.

(3) Housing with services establishments that are required to file disclosure statements under IC 12-10-15.

(4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

(*Indiana State Department of Health; 410 IAC 7-22-15; filed May 19, 2003, 8:50 a.m.: 26 IR 3336*)

#### 410 IAC 7-22-16 Assignment of supervision and responsibility

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

**Sec. 16. (a)** The food establishment shall have a person-in-charge present at the food establishment during all hours of operation.

**(b)** From one (1) year beyond the effective date of this rule, any food establishment not exempted from the law shall maintain at least one (1) copy of this rule on premises at all times. Immediate electronic access to this rule shall be considered acceptable for meeting this requirement.

(*Indiana State Department of Health; 410 IAC 7-22-16; filed May 19, 2003, 8:50 a.m.: 26 IR 3336*)

#### 410 IAC 7-22-17 Qualifications for certification

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

**Sec. 17.** In order to become a certified food handler an individual must comply with the following:

(1) Successfully pass an accredited examination administered by an accredited testing service.

(2) Provide name, certification document (copies thereof), and photo identification card at the food establishment for the certified food handler. The certification document shall be made available by the person-in-charge for inspection by the regulatory authority at all times.

(3) The certification document shall be removed from the food establishment when the certified food handler terminates employment with the food establishment.

**(4) No person shall be designated as a certified food handler or in any way represent himself or herself as a certified food handler unless they hold a certification document.**

*(Indiana State Department of Health; 410 IAC 7-22-17; filed May 19, 2003, 8:50 a.m.: 26 IR 3336)*

**410 IAC 7-22-18 Recertification**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 18. (a) A person designated as the certified food handler for a food establishment must not allow their certification to expire. and**

**(b) The certified food handler shall become recertified as defined in section 13 [of this rule].** *(Indiana State Department of Health; 410 IAC 7-22-18; filed May 19, 2003, 8:50 a.m.: 26 IR 3337)*

**410 IAC 7-22-19 Penalties**

Authority: IC 16-42-5.2-13  
Affected: IC 16-42-5.2

**Sec. 19. Unless adjusted by an administrative order, the following schedule of monetary penalties shall be used if penalties are to be assessed:**

**Section 15(a), (b), (c), (d), (e), and (f)** \$0–100 per day per violation  
*[Section 15(a) through 15(f) of this rule]*

**Section 16(a)** *[of this rule]* \$0–100 per day per violation

**Section 16(b)** *[of this rule]* \$0–50 per day per violation

**Section 17(a), 1, 2, 3 and 4** \$0–100 per day per violation  
*[Section 17(1) through 17(4) of this rule]*

*(Indiana State Department of Health; 410 IAC 7-22-19; filed May 19, 2003, 8:50 a.m.: 26 IR 3337)*

*LSA Document #02-266(F)*

*Notice of Intent Published: 26 IR 64*

*Proposed Rule Published: January 1, 2003; 26 IR 1245*

*Hearing Held: January 27, 2003*

*Approved by Attorney General: April 30, 2003*

*Approved by Governor: May 14, 2003*

*Filed with Secretary of State: May 19, 2003, 8:50 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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**TITLE 440 DIVISION OF MENTAL HEALTH  
AND ADDICTION**

LSA Document #02-265(F)

**DIGEST**

Adds 440 IAC 9-2-13 to establish standards and requirements for community mental health centers and certified managed care

providers regarding family support services as part of the required continuum of care for persons needing addiction services, persons with serious mental illness, or children with serious emotional disorders. Effective 30 days after filing with the secretary of state.

**440 IAC 9-2-13**

SECTION 1. 440 IAC 9-2-13 IS ADDED TO READ AS FOLLOWS:

**440 IAC 9-2-13 Family support**

Authority: IC 12-21-2-8; IC 12-21-5-1.5

Affected: IC 12-7-2; IC 12-23-12-1; IC 12-24-12-10; IC 12-24-19-4

**Sec. 13. (a) Managed care providers and community mental health centers shall provide family support services in accordance with the standards set out in this section.**

**(b) Opportunities for family involvement and support shall be identified during the initial assessment and reassessed during regular case review.**

**(c) Family members, legal representatives, or others identified by the consumer as a source of support shall be invited to be involved in treatment planning and other activities with the consent of the adult consumer or the consent of the addicted child in accordance with IC 12-23-12-1 and 42 CFR Part 2.**

**(d) Input and information provided by the family, legal representative, or supportive others shall be given consideration and utilized when appropriate.**

**(e) Education regarding an individual's mental illness or addiction issues shall be provided for family members, legal representatives, and supportive others with the consumer's consent, including the following:**

**(1) Typical symptoms and crisis management.**

**(2) Medications and side effects of medications.**

**(3) Community resources.**

**(4) Applicable laws, legal issues, and rights of consumers. and**

**(5) Family dynamics.**

**(f) Direct service staff shall receive training which addresses the following:**

**(1) Applicable laws, legal issues, and rights of consumers.**

**(2) Sensitivity in dealing with families and supportive others in crisis.**

**(3) Cultural diversity. and**

**(4) Family dynamics.**

*(Division of Mental Health and Addiction; 440 IAC 9-2-13; filed May 19, 2003, 9:15 a.m.: 26 IR 3337)*

*LSA Document #02-265(F)*

*Notice of Intent Published: 26 IR 64*

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## Final Rules

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*Proposed Rule Published: December 1, 2002; 26 IR 867*  
*Hearing Held: January 7, 2003*  
*Approved by Attorney General: May 8, 2003*  
*Approved by Governor: May 14, 2003*  
*Filed with Secretary of State: May 19, 2003, 9:15 a.m.*  
*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

LSA Document #02-287(F)

#### DIGEST

Amends 540 IAC 1-7-2, 540 IAC 1-8-2, and 540 IAC 1-10-1 to clarify how the fee paid to the administrator of the Indiana CollegeChoice 529 Program is calculated, to clarify the initial and subsequent minimum contribution requirements of the Indiana CollegeChoice 529 Program, and to eliminate limitations on frequency of distributions from an account. Repeals 540 IAC 1-9-2.6. Effective 30 days after filing with the secretary of state.

**540 IAC 1-7-2**  
**540 IAC 1-8-2**

**540 IAC 1-9-2.6**  
**540 IAC 1-10-1**

SECTION 1. 540 IAC 1-7-2 IS AMENDED TO READ AS FOLLOWS:

#### **540 IAC 1-7-2 Administrator fee charge**

**Authority:** IC 21-9-4-7  
**Affected:** IC 21-9

Sec. 2. The program administrator shall charge an annual administrator fee, which shall be ~~computed and allocated to account owners' account earnings~~; **based on the value of the assets of the portfolio. As used in this section "portfolio" means the investment selected by the account owner to which account contributions are allocated.** (*Indiana Education Savings Authority; 540 IAC 1-7-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107; filed May 27, 2003, 11:15 a.m.: 26 IR 3338*)

SECTION 2. 540 IAC 1-8-2 IS AMENDED TO READ AS FOLLOWS:

#### **540 IAC 1-8-2 Contribution amount**

**Authority:** IC 21-9-4-7  
**Affected:** IC 21-9

Sec. 2. An account owner or contributor must specify an amount to be contributed according to the contribution option chosen by the account owner in the adoption agreement. All contributions, **other than initial contributions defined in 540 IAC 1-7-1**, must be in an amount not less than twenty-five dollars (\$25). (*Indiana Education Savings Authority; 540 IAC*

*1-8-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; errata filed Nov 20, 1997, 3:15 p.m.: 21 IR 1350; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107; filed May 27, 2003, 11:15 a.m.: 26 IR 3338*)

SECTION 3. 540 IAC 1-10-1 IS AMENDED TO READ AS FOLLOWS:

#### **540 IAC 1-10-1 Benefit payment**

**Authority:** IC 21-9-4-7  
**Affected:** IC 21-9

Sec. 1. For payment of benefits from the trust to begin, the account owner shall submit a notice to use program benefits. The payment of benefits shall be made only for qualified higher education expenses or shall be subject to applicable penalties for nonqualified distributions. All qualified higher education expenses shall be paid:

- (1) directly to the eligible educational institution;
- (2) to the beneficiary as directed by the account owner; or
- (3) to the account owner.

Payment shall be ~~limited to once a month~~ and subject to a minimum distribution amount of fifty dollars (\$50). (*Indiana Education Savings Authority; 540 IAC 1-10-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2823; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108; filed May 27, 2003, 11:15 a.m.: 26 IR 3338*)

SECTION 4. 540 IAC 1-9-2.6 IS REPEALED.

LSA Document #02-287(F)

*Notice of Intent Published: 26 IR 418*

*Proposed Rule Published: January 1, 2003; 26 IR 1257*

*Hearing Held: February 24, 2002*

*Approved by Attorney General: May 12, 2003*

*Approved by Governor: May 23, 2003*

*Filed with Secretary of State: May 27, 2003, 11:15 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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### TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

LSA Document #02-233(F)

#### DIGEST

Adds 570 IAC 1-14 concerning career college student assurance fund. Effective 30 days after filing with the secretary of state.

#### **570 IAC 1-14**

SECTION 1. 570 IAC 1-14 IS ADDED TO READ AS FOLLOWS:

#### **Rule 14. Career College Student Assurance Fund**

**570 IAC 1-14-1 Fund administration**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.2; IC 20-1-19-18

**Sec. 1. (a) The career college student assurance fund shall be administered by the commission under this rule.**

**(b) The expenses of administering the fund shall be paid from money in the fund.**

**(c) As used in this rule, "fund" means the career college student assurance fund.** (*Indiana Commission on Proprietary Education; 570 IAC 1-14-1; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-2 Claim criteria**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8

**Sec. 2. The fund is established to provide compensation to a student or enrollee of a postsecondary educational institution who suffers a loss or damage as a result of:**

- (1) the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the accreditation and the materials submitted in support of that application;**
- (2) the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of IC 20-1-19; or**
- (3) an agent's misrepresentation in procuring the student's enrollment.**

(*Indiana Commission on Proprietary Education; 570 IAC 1-14-2; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-3 Fund contributions**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.3

**Sec. 3. (a) The proper amount of a postsecondary educational institution's fund contribution shall be calculated in accordance with IC 20-1-19-8.3.**

**(b) Upon receipt of a contribution from a school to the fund, the check shall be deposited into the fund within twenty-four (24) hours of receipt.**

**(c) Money in the fund not currently needed will be invested by the treasurer of the state.**

**(d) The treasurer of the state shall invest the money in a manner similar to the investment of other public funds.**

**(e) Any gains made from fund investments shall also be deposited into the fund.**

**(f) Fund proceeds do not revert into the general state**

**fund.** (*Indiana Commission on Proprietary Education; 570 IAC 1-14-3; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-4 Quarterly contributions**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

**Sec. 4. Each postsecondary proprietary institution shall make quarterly contributions to the fund in compliance with IC 20-1-19-8.3. As used in IC 20-1-19-8.3, "aggregate amount of tuition and fees" means gross income before depreciation, taxes, or amortization, less any student refunds required by this rule or by student contract.** (*Indiana Commission on Proprietary Education; 570 IAC 1-14-4; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-5 Quarterly beginnings**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

**Sec. 5. A new quarter will begin on each of the following dates:**

- (1) January 1.**
- (2) April 1.**
- (3) July 1.**
- (4) October 1.**

(*Indiana Commission on Proprietary Education; 570 IAC 1-14-5; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-6 Claims against bond and fund; procedures**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-20.6

**Sec. 6. When a student of a postsecondary proprietary institution is protected by both a surety bond and the fund when making a claim, the allowed claim will first be collected from the surety bond and then any balance of the claim will be collected from the fund.** (*Indiana Commission on Proprietary Education; 570 IAC 1-14-6; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

**570 IAC 1-14-7 Claims against bond and fund; limitations; procedures**

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-20.6

**Sec. 7. (a) A claim as described in section 8 of this rule is limited to a refund of the student or enrollee's applicable tuition and fees.**

**(b) Upon a determination by the commission that a claimant shall be reimbursed, the commission shall prioritize the reimbursement in the following order:**

- (1) Tuition, fees, and other expenses paid directly by the student.**
- (2) A student or enrollee's educational loan balances, less interest.**
- (3) Federal grant repayment obligations of the student.**

(c) Claims against the balance in the fund may not be made until the balance in the career college assurance fund is more than twenty-five thousand dollars (\$25,000). (*Indiana Commission on Proprietary Education; 570 IAC 1-14-7; filed May 15, 2003, 10:30 a.m.: 26 IR 3339*)

### 570 IAC 1-14-8 Claims against an institution

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.2

Sec. 8. (a) Any student or enrollee who alleges a loss or damage due to the conditions described in section 2 of this rule may file a claim against the institution.

(b) Any claim submitted to the commission must include the following:

- (1) A statement of the facts supporting the claim or outlining the problems experienced.
- (2) A copy of the student or enrollee's enrollment agreement.
- (3) Documentation of tuition payments in the form of canceled checks, credit card receipts, money orders, or financial aid documents.
- (4) Any other supporting documentation which would be beneficial to a commission investigation.

(c) Upon receipt of such documentation, commission staff will then be responsible for conducting an investigation. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-8; filed May 15, 2003, 10:30 a.m.: 26 IR 3340*)

### 570 IAC 1-14-9 Multiple claims against the fund

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.2

Sec. 9. If more than one (1) claim needs to be paid, amounts of the claims will be prorated as such so that some portion of each claim is paid until all amounts are paid in full. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-9; filed May 15, 2003, 10:30 a.m.: 26 IR 3340*)

### 570 IAC 1-14-10 Investigation, hearing, and payment of allowed claims

Authority: IC 20-1-19-4  
Affected: IC 4-21.5; IC 20-1-19-8; IC 20-1-19-8.2

Sec. 10. After the filing of a claim, the commission shall conduct an investigation. Commission staff will try to resolve the complaint to the satisfaction of all parties through an informal investigation. An investigation into a student or enrollee's claim will be made by commission staff through the following process:

- (1) After reviewing a student or enrollee's complaint, commission staff shall then contact the postsecondary educational institution.
- (2) The postsecondary educational institution shall respond in writing to the student or enrollee's complaint

and commission staff inquiry within two (2) weeks of receipt of the complaint.

(3) If, after the postsecondary educational institution has responded to the inquiry, the claim cannot be resolved satisfactorily on an informal basis, either party may request a hearing.

(4) If a hearing is requested, the student or enrollee or the postsecondary educational institution shall be given not less than twenty (20) days' notice. Each party shall be permitted to appear and defend at a formal hearing set on the claim.

(5) If it is determined by the commission, either through an informal investigation or a request for formal hearing that a claim is valid, the commission shall determine the amount of the allowed claim and notify the institution of the fact of the claim allowance. If the claim is disallowed in whole or in part, the student shall be notified of the disallowance.

(6) If, after such formal hearing and adjudication of such claim by the commission, any party to the proceedings desires to appeal therefrom, such appeal shall be prosecuted under the provisions of the Indiana Administrative Adjudication Act (IC 4-21.5).

(7) A disbursement from the fund shall be paid to a student or enrollee within thirty (30) days from the date the determination is made.

(8) In the event the claim is not paid or satisfied within a reasonable time, the claim shall be paid by disbursement from the fund.

(*Indiana Commission on Proprietary Education; 570 IAC 1-14-10; filed May 15, 2003, 10:30 a.m.: 26 IR 3340*)

### 570 IAC 1-14-11 Rights of commission to proceed against institution

Authority: IC 20-1-19-4  
Affected: IC 20-1-19-8.1

Sec. 11. If a claim is paid out of the fund, the commission shall make all reasonable efforts to collect the amount of the paid claim from the institution against whom the claim was made. These efforts may include, where appropriate, commencing civil action on behalf of the state against the institution in the county of its principal place of business. Any amounts recovered as a result of these efforts shall be returned to the fund. (*Indiana Commission on Proprietary Education; 570 IAC 1-14-11; filed May 15, 2003, 10:30 a.m.: 26 IR 3340*)

*LSA Document #02-233(F)*

*Notice of Intent Published: 25 IR 4131*

*Proposed Rule Published: December 1, 2002; 26 IR 867*

*Hearing Held: January 31, 2003*

*Approved by Attorney General: April 29, 2003*

*Approved by Governor: May 13, 2003*

*Filed with Secretary of State: May 15, 2003, 10:30 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

**TITLE 575 STATE SCHOOL BUS COMMITTEE**

LSA Document #02-315(F)

DIGEST

Adds 575 IAC 1-1-4.6 concerning the display of the United States flag on school buses. Effective 30 days after filing with the secretary of state.

**575 IAC 1-1-4.6**

SECTION 1. 575 IAC 1-1-4.6 IS ADDED TO READ AS FOLLOWS:

**575 IAC 1-1-4.6 Display of United States flag**

Authority: IC 20-9.1-4-4; IC 20-9.1-4-4.7  
Affected: IC 20-9.1

**Sec. 4.6. (a) A school bus may display the United States flag.**

**(b) The flag must:**

- (1) be a decal only;**
- (2) not contain any words, lettering, slogans, or symbols;**
- (3) be nonreflective;**
- (4) be a maximum of three (3) inches high with proportional length;**
- (5) have straight horizontal stripes with the union facing the front of the school bus;**
- (6) be located on both sides of the school bus beneath the first passenger window and centered vertically in the belt line between the rub rails;**
- (7) be the same size on each side; and**
- (8) not obscure the governing body name, bus number, other identifiers, or equipment in the belt line.**

*(State School Bus Committee; 575 IAC 1-1-4.6; filed May 19, 2003, 8:40 a.m.: 26 IR 3341)*

*LSA Document #02-315(F)*

*Notice of Intent Published: 26 IR 816*

*Proposed Rule Published: February 1, 2003; 26 IR 1723*

*Hearing Held: February 27, 2003*

*Approved by Attorney General: May 9, 2003*

*Approved by Governor: May 14, 2003*

*Filed with Secretary of State: May 19, 2003, 8:40 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

**TITLE 862 PRIVATE DETECTIVES LICENSING BOARD**

LSA Document #02-302(F)

DIGEST

Amends 862 IAC 1-1-6 to revise the advertising require-

ments. Effective 30 days after filing with the secretary of state.

**862 IAC 1-1-6**

SECTION 1. 862 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

**862 IAC 1-1-6 Advertising**

Authority: IC 25-30-1-5.5

Affected: IC 25-30-1-13; IC 35-43-4-3; IC 35-43-5-3

**Sec. 6. (a) Any advertisement by a licensee, or by any employee, member, officer, director, or manager of a licensee, must contain the full name, business address, and license number of the licensee as they appear in the records of the board. Such advertising shall include, but is not limited to, the following:**

- (1) Business cards.**
- (2) Identification cards.**
- (3) Letterhead.**
- (4) Invoices.**
- (5) Other forms that may be used to advertise the licensee's business.**

**(b) No written or verbal advertisement by any licensee, or by any employee, member, officer, director, or manager of a licensee, shall contain any inference that the licensee or any such person is connected with or in any manner represents the Indiana State Police Department or the Superintendent of the Indiana State Police Department, nor shall the words "Indiana State Police"; or "Superintendent of Indiana State Police"; "Police"; or the letters "I.S.P.," be used by any licensee or employee, member, officer, director or manager of a licensee on any forms, cards, letterheads or advertising media of any kind, provided that any local, state, or federal law enforcement agency.**

**(c) This section shall not be construed to prevent the proper use of the forms and cards authorized by the private detective license law and by these rules and regulations this article or any other legitimate advertising, but is intended solely for the purpose of preventing misleading or false advertising within the meaning and intent of Indiana Code IC 35-43-4-3 and IC 35-43-5-3. (Private Detectives Licensing Board; Private Detective License Law Rule VII; filed Feb 5, 1979, 2:45 p.m.: 2 IR 300; readopted filed May 22, 2001, 9:54 a.m.: 24 IR 3237; filed May 27, 2003, 11:05 a.m.: 26 IR 3341) NOTE: Transferred from State Police Department (240 IAC 4.1-1-7) to Private Detectives Licensing Board (862 IAC 1-1-6) by P.L.234-1989, SECTION 25, effective July 1, 1989.**

*LSA Document #02-302(F)*

*Notice of Intent Published: 26 IR 418*

*Proposed Rule Published: February 1, 2003; 26 IR 1728*

*Hearing Held: March 20, 2003*

*Approved by Attorney General: May 8, 2003*

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## Final Rules

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Approved by Governor: May 23, 2003  
Filed with Secretary of State: May 27, 2003, 11:05 a.m.  
Incorporated Documents Filed with Secretary of State: None

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### TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #02-244(F)

#### DIGEST

Adds 876 IAC 1-1-30.1 to require that a licensee shall provide to the commission his or her current residential address. Amends 876 IAC 2-16-1 to establish that referral status does not qualify as accrued continuous active experience as a licensed salesperson as required to obtain a broker license under IC 25-34.1-3-4.1(a)(2). Effective 30 days after filing with the secretary of state.

#### 876 IAC 1-1-30.1

#### 876 IAC 2-16-1

SECTION 1. 876 IAC 1-1-30.1 IS ADDED TO READ AS FOLLOWS:

#### 876 IAC 1-1-30.1 Residential address of licensees

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-4.1; IC 25-34.1-3-6

**Sec. 30.1. In addition to complying with IC 25-34.1-3-6, each licensee shall immediately notify the commission of any change in the licensee's residential address.** (*Indiana Real Estate Commission; 876 IAC 1-1-30.1; filed May 27, 2003, 11:00 a.m.: 26 IR 3342*)

SECTION 2. 876 IAC 2-16-1 IS AMENDED TO READ AS FOLLOWS:

#### 876 IAC 2-16-1 Broker license; experience requirement and waiver

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-4.1; IC 25-34.1-9-19

Sec. 1. (a) **Referral status under IC 25-34.1-9-19(2) does not qualify as accrued continuous active experience as a licensed salesperson as required under IC 25-34.1-3-4.1(a)(2).**

(b) To qualify for a waiver of the requirement under IC 25-34.1-3-4.1(a)(2) of one (1) year experience immediately preceding the application as a licensed salesperson in the state of Indiana, an applicant for a broker license must have at least two (2) years of experience within the previous five (5) years as a salesperson or broker in Indiana or any other state requiring licensure. (*Indiana Real Estate Commission; 876 IAC 2-16-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 935, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; readopted filed Jun*

29, 2001, 9:56 a.m.: 24 IR 3824; filed May 27, 2003, 11:00 a.m.: 26 IR 3342)

LSA Document #02-244(F)

Notice of Intent Published: 25 IR 4132

Proposed Rule Published: March 1, 2003; 26 IR 2127

Hearing Held: March 27, 2003

Approved by Attorney General: May 12, 2003

Approved by Governor: May 23, 2003

Filed with Secretary of State: May 27, 2003, 11:00 a.m.

Incorporated Documents Filed with Secretary of State: None

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### TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #02-300(F)

#### DIGEST

Adds 876 IAC 4-2-3.5 to establish an outline for the mandatory continuing education courses under IC 25-34.1-9-11(a)(1). Effective January 1, 2004.

#### 876 IAC 4-2-3.5

SECTION 1. 876 IAC 4-2-3.5 IS ADDED TO READ AS FOLLOWS:

#### 876 IAC 4-2-3.5 Outline for curricula for salespersons and brokers under IC 25-34.1-9-11(a)(1)

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

**Sec. 3.5. (a) Except as allowed by subsection (b), the subject areas required in sections 2 and 3 of this rule shall be taught under the following recommended outlines:**

(1) **The following under the Indiana licensure and escrow law:**

(A) **Purpose and basic provisions of licensing statutes and administrative rules.**

(B) **Real estate broker and salesperson licensure requirements.**

(C) **Educational requirements.**

(D) **Enforcement of statutes and rules.**

(E) **Seller agency.**

(F) **Buyer agency.**

(G) **Limited agency.**

(H) **Disclosure issues.**

(I) **Unlicensed assistants.**

(J) **Current topics of importance.**

(2) **The following under the agency law:**

(A) **General agency law.**

(B) **Agency relationships, including agent's duty to the following:**

- (i) Principal.
  - (ii) Third parties.
  - (C) Creation of an agency.
  - (D) Enforcement of agency, including the following:
    - (i) Intentional misrepresentation.
    - (ii) Negligent misrepresentation.
    - (iii) Fraud.
  - (E) Liabilities and consequences of breach of duties, including the following:
    - (i) Disciplinary action by the Indiana real estate commission.
    - (ii) Civil liability.
    - (iii) Criminal liability.
  - (F) Seller agency.
  - (G) Buyer agency.
  - (H) Limited agency.
  - (3) The following under the fair housing and civil rights laws:
    - (A) Historical context of legislation.
    - (B) Discriminatory acts and penalties, including the following:
      - (i) Theories of discrimination.
      - (ii) Items of specific prohibition.
      - (iii) Definitions.
    - (C) Exemptions.
    - (D) Enforcement.
    - (E) Testing for compliance.
    - (F) Advertising.
    - (G) Protected classes.
    - (H) Record keeping.
    - (I) Fair housing procedures.
  - (4) The following under the listing contracts and purchase agreements:
    - (A) Basic contract law.
    - (B) Statute of frauds.
    - (C) Indiana license law.
    - (D) Essential elements of a contract.
    - (E) Enforcement and defenses to enforcement of contracts.
    - (F) Listing contracts, including the following:
      - (i) Types.
      - (ii) Seller disclosure.
      - (iii) Duties and responsibilities of both parties.
      - (iv) Extension/protection clause.
    - (G) Purchase agreement, including the following:
      - (i) Duties and responsibilities of both parties.
      - (ii) Contingencies.
      - (iii) Real property and personal property issues.
  - (5) The following under the settlement procedures:
    - (A) Principles and sources of contract law.
    - (B) Contract terms and definitions.
    - (C) Contract essentials.
    - (D) Legal objective.
    - (E) Performance and nonperformance.
    - (F) Sources of contract law.
  - (G) Listing contract and purchase agreements.
  - (H) Agent's role in closing, including the following:
    - (i) Financing.
    - (ii) Inspections.
    - (iii) Environmental.
    - (iv) Insurance.
    - (v) Appraisal and survey.
    - (vi) Title.
    - (vii) Closing and possession.
  - (I) Escrow deposits and disbursement.
  - (J) Controlling problems.
  - (6) The following under antitrust laws:
    - (A) Sherman Act.
    - (B) Clayton Act.
    - (C) Federal Trade Commission.
    - (D) Indiana act.
    - (E) Penalties for antitrust violations.
    - (F) Potential violations with clients and customers.
    - (G) Potential violations with competitors.
    - (H) Potential violations with providers and other organizations.
    - (I) Enforcement.
    - (J) Compliance policies.
  - (7) The following under environmental issues:
    - (A) Historical perspective.
    - (B) Federal environmental laws.
    - (C) Indiana environmental laws, including the following:
      - (i) Insecticide and pesticide.
      - (ii) Wells.
      - (iii) Water quality.
      - (iv) Sewage disposal systems.
      - (v) Radon.
      - (vi) Asbestos.
      - (vii) Lead.
      - (viii) Storage tanks.
      - (ix) Electric and magnetic fields.
      - (x) Wet lands.
      - (xi) Mold and other biological contaminants.
  - (8) The following under ethics and standards:
    - (A) Ethics, standards, regulations, and laws.
    - (B) Business versus personal ethics.
    - (C) Ethical considerations, including the following:
      - (i) Management.
      - (ii) Record keeping.
      - (iii) Confidentiality.
    - (D) Standards discussions.
    - (E) Duties and responsibilities of parties involved.
    - (F) Mediation.
    - (G) Arbitration.
    - (H) Litigation with regulations.
- (b) As an alternative to following the outlines in subsection (a), the subject areas required in sections 2 and 3 of this rule may be taught under outlines substantially similar under subsection (a). (*Indiana Real Estate Commission; 876*)

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## Final Rules

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*IAC 4-2-3.5; filed May 27, 2003, 11:01 a.m.: 26 IR 3342, eff  
Jan 1, 2004)*

**SECTION 2. SECTION 1 of this document takes effect  
January 1, 2004.**

*LSA Document #02-300(F)*

*Notice of Intent Published: 26 IR 418*

*Proposed Rule Published: February 1, 2003; 26 IR 1730*

*Hearing Held: February 27, 2003*

*Approved by Attorney General: May 12, 2003*

*Approved by Governor: May 23, 2003*

*Filed with Secretary of State: May 27, 2003, 11:01 a.m.*

*Incorporated Documents Filed with Secretary of State: None*

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**TITLE 760 DEPARTMENT OF INSURANCE**

LSA Document #01-399(AC)

Under IC 4-22-2-38, corrects the following typographical error in LSA Document #01-399(F), printed at 26 IR 19:

In 760 IAC 1-5.1-7(b), on page 10 of the original document (26 IR 24), delete " $a_n = (1 - v)^n/i$ " and insert " $a_n = (1 - v^{-n})/i$ ".

*Filed with Secretary of State: June 10, 2003, 2:45 p.m.*

*Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from date and time filed with the Secretary of State.*

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**Notice of Recall**

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**TITLE 515 PROFESSIONAL STANDARDS BOARD**

LSA Document #02-314

Under IC 4-22-2-40, LSA Document #02-314, printed at 26 IR  
1253, is recalled.

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**TITLE 312 NATURAL RESOURCES COMMISSION**

LSA Document #02-232

Under IC 4-22-2-41, LSA Document #02-232, printed at 26 IR 1602, is withdrawn.

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**TITLE 828 STATE BOARD OF DENTISTRY**

LSA Document #03-62

Under IC 4-22-2-41, LSA Document #03-62, printed at 26 IR 2395, is withdrawn.

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# Emergency Rules

## TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-121(E)

### DIGEST

Adds 65 IAC 4-206 concerning instant game number 887.  
Effective May 8, 2003.

#### 65 IAC 4-206

SECTION 1. 65 IAC 4-206 IS ADDED TO READ AS FOLLOWS:

##### Rule 206. Instant Game 887

#### 65 IAC 4-206-1 Name

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 1.** The name of this instant game is “Instant Game Number 887, Hoosier Millionaire”. (*State Lottery Commission; 65 IAC 4-206-1; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3348*)

#### 65 IAC 4-206-2 Ticket price

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 2.** Instant tickets in instant game number 887 shall sell for one dollar (\$1) per ticket. (*State Lottery Commission; 65 IAC 4-206-2; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3348*)

#### 65 IAC 4-206-3 Instant ticket layout

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 3.** Each instant ticket in instant game number 887 shall contain ten (10) play symbols and play symbol captions in the game play data area all concealed under a spot of latex material. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled “YOUR NUMBER”. Eight (8) play symbols and play symbol captions shall appear in the box labeled “YOUR GAME NUMBERS” and be arranged in pairs representing numbered coins and prize amounts. One (1) play symbol and play symbol caption shall appear in the box labeled “BONUS”. (*State Lottery Commission; 65 IAC 4-206-3; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3348*)

#### 65 IAC 4-206-4 Play symbols and play symbol captions

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 4. (a)** The play symbols and play symbol captions representing prize amounts in instant game number 887

shall consist of the following possible play symbols and play symbol captions:

- (1) ENTRY  
ENTRY
- (2) \$1.00  
ONE
- (3) \$2.00  
TWO
- (4) \$3.00  
THREE
- (5) \$4.00  
FOUR
- (6) \$5.00  
FIVE
- (7) \$10.00  
TEN
- (8) \$500  
FIVE HUN

(b) The play symbols and play symbol captions, other than those representing prize amounts or appearing in the “BONUS” box, shall consist of the following possible play symbols and play symbol captions:

- (1) 1  
ONE
- (2) 2  
TWO
- (3) 3  
THREE
- (4) 4  
FOUR
- (5) 5  
FIVE
- (6) 6  
SIX
- (7) 7  
SEVEN
- (8) 8  
EIGHT
- (9) 9  
NINE
- (10) 10  
TEN
- (11) 11  
ELEVEN
- (12) 12  
TWELVE
- (13) 13  
THIRTN
- (14) 14  
FOURTN
- (15) 15  
FIFTN
- (16) 16  
SIXTN

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- (17) 17  
SVNTN
- (18) 18  
EGHTN
- (19) 19  
NINTN
- (20) 20  
TWENTY
- (21) 21  
TWYONE
- (22) 22  
TWYTWO
- (23) 23  
TWYTHR
- (24) 24  
TWYFOR
- (25) 25  
TWYFIV
- (26) 26  
TWYSIX
- (27) 27  
TWYSVN
- (28) 28  
TWYEGT
- (29) 29  
TWYNIN
- (30) 30  
THIRTY

(c) The play symbols and play symbol captions appearing in the "BONUS" box shall consist of the following possible play symbols and play symbol captions:

- (1) YOU ARE ON THE SHOW  
SEE TICKET BACK FOR DETAILS
- (2) STOPPER-TRY AGAIN  
SEE TICKET BACK FOR DETAILS

(State Lottery Commission; 65 IAC 4-206-4; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3348)

### 65 IAC 4-206-5 How to play

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 5. The holder of a valid instant ticket in instant game number 887 shall remove the latex material covering the ten (10) play symbols and play symbol captions. If one (1) or more of the play symbols and play symbol captions exposed in the "YOUR GAME NUMBERS" box match the play symbol and play symbol caption exposed in the "YOUR NUMBER" box, the holder is entitled to the paired prize. If "YOU ARE ON THE SHOW" is exposed in the "BONUS" box, the holder is automatically entitled to be a contestant on a future installment of the Hoosier Millionaire® Game Show. (State Lottery Commission; 65 IAC 4-206-5; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3349)

### 65 IAC 4-206-6 Prizes

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 6. The prize amounts and number of winners in instant game number 887 are as follows:

Winning Play Symbols	Prize Amount	Approximate Number of Winners
ENTRY	Entry into drawing to be a contestant on the Hoosier Millionaire® Game Show	173,600
1-\$1.00	\$1	545,600
2-\$1.00	\$2	421,600
1-\$2.00	\$2	148,800
3-\$1.00	\$3	24,800
1-\$1.00 + 1-\$2.00	\$3	24,800
1-\$3.00	\$3	24,800
4-\$1.00	\$4	49,600
3-\$1.00 + 1-\$2.00	\$5	24,800
1-\$1.00 + 2-\$2.00	\$5	24,800
1-\$1.00 + 1-\$4.00	\$5	24,800
1-\$5.00	\$5	124,000
2-\$5.00	\$10	12,400
1-\$10.00 + 2-\$5.00	\$20	24,800
1-\$500	\$500	6
YOU ARE ON THE SHOW	Automatic contestant on a future Hoosier Millionaire® Game Show	16

(State Lottery Commission; 65 IAC 4-206-6; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3349)

### 65 IAC 4-206-7 Number of ticket; odds; reorders

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 7. (a) There shall be approximately seven million (7,000,000) instant tickets initially available in instant game number 887.

(b) The odds of winning a prize in instant game number 887 are approximately 1 in 4.51.

(c) All reorders of tickets for instant game number 887 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of two hundred forty thousand (240,000); and
- (3) odds;

as contained in the initial order. (State Lottery Commission; 65 IAC 4-206-7; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3349)

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## Emergency Rules

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### 65 IAC 4-206-8 Last day to claim prizes

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 8. Players will have up to sixty (60) days from the end of instant game 887 within which to claim their prizes. End of game and last day to claim dates are available from any retailer who sells lottery tickets, through the commission's customer service number, 1-800-955-6886, and on its Web site, [www.hoosierlottery.com](http://www.hoosierlottery.com). Any prizes not claimed by that date are forfeited. (*State Lottery Commission; 65 IAC 4-206-8; emergency rule filed May 8, 2003, 8:25 a.m.: 26 IR 3350*)

LSA Document #03-121(E)

Filed with Secretary of State: May 8, 2003, 8:25 a.m.

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## TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-137(E)

### DIGEST

Temporarily adds rules concerning pull-tab game number 001. Effective May 30, 2003.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 001, Royal Sevens".

SECTION 2. Pull-tab tickets for pull-tab game number 001 shall sell for one dollar (\$1) per ticket.

SECTION 3. Pull-tab game number 001 is a criss-cross game.

SECTION 4. A pull-tab ticket in pull-tab game number 001 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 001 shall consist of the following possible play symbols:

(1) A picture of a 7 with a crown

CROWN SEVEN

(2) A picture of a crown

CROWN

(3) A picture of a seven incased in glass

GLASS SEVEN

(4) A picture of an emerald

EMERALD

(5) A picture of a goblet

GOBLET

(6) A picture of a bunch of grapes

GRAPES

(7) A picture of dice

DICE

(8) A picture of cross swords

SWORDS

(9) A picture of a bunch of cherries

CHERRIES

SECTION 5. A line on a pull-tab ticket in pull-tab game number 001 which contains three (3) identical play symbols of crown sevens or two (2) identical play symbols of crown sevens and one (1) picture of either a crown, glass seven, emerald, goblet, or grapes is not a criss-cross winning combination unless all of the following are true:

(1) The play symbols and play symbol captions in the line are consistent with those specified in section 4 of this rule [document].

(2) The three (3) play symbols and play symbol captions in the line are bisected by a green arrow.

(3) The prize amount appears on the left side of the line in red ink on a yellow box.

SECTION 6. Subject to section 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 001 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows:

Matching Play Symbol in Criss-Cross Winning Combination	Prize Amount	Approximate Number of Prizes
2 crown sevens + 1 grape	\$ 1	242,028
2 crown sevens + 1 goblet	\$ 2	35,856
2 crown sevens + 1 emerald	\$ 7	17,928
2 crown sevens + 1 glass seven	\$ 17	5,976
2 crown sevens + 1 crown	\$ 77	2,988
3 crown sevens	\$177	2,988

SECTION 7. A total of approximately two million (2,000,000) pull-tab tickets will be initially available for pull-tab game number 001. The odds of winning a prize in pull-tab game 001 are approximately 1 in 6.52. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 001 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.

LSA Document #03-137(E)

Filed with Secretary of State: May 30, 2003, 10:45 a.m.

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**TITLE 65 STATE LOTTERY COMMISSION**

LSA Document #03-138(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 002. Effective May 30, 2003.

**SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 002, Cherry Hearts".**

**SECTION 2. Pull-tab tickets for pull-tab game number 002 shall sell for fifty cents (\$0.50) per ticket.**

**SECTION 3. Pull-tab game number 002 is a criss-cross game.**

**SECTION 4. A pull-tab ticket in pull-tab game number 002 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 002 shall consist of the following possible play symbols:**

- (1) A picture of a heart  
**HEART**
- (2) A picture of a plum  
**PLUM**
- (3) A picture of an orange  
**ORANGE**
- (4) A picture of blueberries  
**BLUEBERRIES**
- (5) A picture of a lemon  
**LEMON**
- (6) A picture of a strawberry  
**STRAWBERRY**
- (7) A picture of an apple  
**APPLE**
- (8) A picture of a bunch of grapes  
**GRAPES**

**SECTION 5. A line on a pull-tab ticket in pull-tab game number 002 which contains three (3) identical play symbols of a heart or two (2) identical play symbols of a heart and one (1) picture of either a plum, orange, blueberries, or lemon is not a criss-cross winning combination unless all of the following are true:**

- (1) The play symbols and play symbol captions in the line are consistent with those specified in section 4 of this rule [document].
- (2) The three (3) play symbols and play symbol captions in the line are bisected by a blue arrow.
- (3) The prize amount appears on the left side of the line in red ink on a yellow box.

**SECTION 6. Subject to section 5 of this rule [document],**

the holder of a valid pull-tab ticket for pull-tab game number 002 containing a criss-cross winning combination is entitled to a prize the amount and the approximate number of which are as follows:

<b>Matching Play Symbol in Criss-Cross Winning Combination</b>	<b>Prize Amount</b>	<b>Approximate Number of Prizes</b>
2 hearts + 1 lemon	\$ .50	371,259
2 hearts + 1 blueberries	\$ 1	80,514
2 hearts + 1 orange	\$ 3	17,892
2 hearts + 1 plum	\$ 20	4,473
3 hearts	\$ 125	4,473

**SECTION 7. A total of approximately three million (3,000,000) pull-tab tickets will be initially available for pull-tab game number 002. The odds of winning a prize in pull-tab game 002 are approximately 1 in 6.28. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

**SECTION 8. The last day to claim prizes in pull-tab game number 002 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.**

*LSA Document #03-138(E)*

*Filed with Secretary of State: May 30, 2003, 10:46 a.m.*

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**TITLE 65 STATE LOTTERY COMMISSION**

LSA Document #03-139(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 003. Effective May 30, 2003.

**SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 003, Magic 8 Ball".**

**SECTION 2. Pull-tab tickets for pull-tab game number 003 shall sell for twenty-five cents (\$0.25) per ticket.**

**SECTION 3. Pull-tab game number 003 is a match 3 game.**

**SECTION 4. A pull-tab ticket in pull-tab game number 003 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play**

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symbols and play symbol captions in pull-tab game number 003 shall consist of the following possible play symbols:

- (1) A picture of an 8 ball  
EIGHT BALL
- (2) A picture of a heart with an 8  
HEART
- (3) A picture of a bell with an 8  
BELL
- (4) A picture of a lime with an 8  
LIME
- (5) A picture of cherries with an 8  
CHERRIES
- (6) A picture of a light bulb with an 8  
LIGHT
- (7) A picture of a planet with an 8  
PLANET
- (8) A picture of a baseball with an 8  
BASEBALL

SECTION 5. A row on a pull-tab ticket in pull-tab game number 003 which contains two (2) identical play symbols and one (1) picture of an eight ball is not a match 3 winning row unless all of the following are true:

- (1) The play symbols and play symbol captions in the row are consistent with those specified in section 4 of this rule [document].
- (2) The three (3) play symbols and play symbol captions in the row are bisected by a pink arrow.
- (3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to section 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 003 containing a match 3 winning row is entitled to a prize amount the approximate number of which are as follows:

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
2 cherries + eight ball	\$ 0.25	548,688
2 limes + eight ball	\$ 1	107,352
2 bells + eight ball	\$ 8	11,928
2 hearts + eight ball	\$50	5,964

SECTION 7. A total of approximately four million (4,000,000) pull-tab tickets will be initially available for pull-tab game number 003. The odds of winning a prize in pull-tab game 003 are approximately 1 in 5.95. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 003 shall be sixty (60) days after the end of the

game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.

*LSA Document #03-139(E)*

*Filed with Secretary of State: May 30, 2003, 10:46 a.m.*

### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-140(E)

#### DIGEST

Temporarily adds rules concerning pull-tab game number 006. Effective May 30, 2003.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 006, EZ Money".

SECTION 2. Pull-tab tickets for pull-tab game number 006 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 006 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 006 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 006 shall consist of the following possible play symbols:

- (1) A picture of a roll of money  
EZ MONEY
- (2) A picture of a stack of paper money  
CASH
- (3) A picture of a dollar sign  
DOLLAR SIGN
- (4) A picture of a stack of coins  
SILVER COINS
- (5) A picture of coins in a hand  
SPARE CHANGE
- (6) A picture of credit cards  
PLASTIC
- (7) A picture of a statement  
PAID BILL

SECTION 5. A row on a pull-tab ticket in pull-tab game number 006 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:

- (1) The play symbols and play symbol captions in the row are consistent with those specified in section 4 of this rule [document].

- (2) The three (3) play symbols and play symbol captions in the row are bisected by a red arrow.
- (3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to section 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 006 containing a match 3 winning row is entitled to a prize amount the approximate number of which are as follows:

Matching Play Symbol in Match	Prize Amount	Approximate Number of Prizes
3 Winning Row		
3 silver coins	\$ 0.25	572,544
3 dollar signs	\$ 1	77,532
3 cash	\$ 5	23,856
3 EZ money	\$50	5,964

SECTION 7. A total of approximately four million (4,000,000) pull-tab tickets will be initially available for pull-tab game number 006. The odds of winning a prize in pull-tab game 006 are approximately 1 in 5.89. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 006 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.

LSA Document #03-140(E)  
 Filed with Secretary of State: May 30, 2003, 10:48 a.m.

**TITLE 65 STATE LOTTERY COMMISSION**

LSA Document #03-141(E)

**DIGEST**

Temporarily adds rules concerning pull-tab game number 007. Effective May 30, 2003.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 007, Bingo Nut".

SECTION 2. Pull-tab tickets for pull-tab game number 007 shall sell for fifty cents (\$0.50) per ticket.

SECTION 3. Pull-tab game number 007 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number

007 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 007 shall consist of the following possible play symbols:

- (1) A picture of a peanut character  
BINGO NUT
- (2) A picture of a bingo card  
BINGO CARD
- (3) A picture of numbered balls  
BALLS
- (4) A picture of a troll  
TROLL
- (5) A picture of a pull-tab ticket  
PULL-TAB
- (6) A picture of a bear  
TEDDY
- (7) A picture of a horseshoe  
HORSESHOE
- (8) A picture of an elephant  
ELEPHANT

SECTION 5. A row on a pull-tab ticket in pull-tab game number 007 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:

- (1) The play symbols and play symbol captions in the row are consistent with those specified in section 4 of this rule [document].
- (2) The three (3) play symbols and play symbol captions in the row are bisected by a red arrow.
- (3) The prize amount appears on the left side of the row in red ink in a yellow box.

SECTION 6. Subject to section 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 007 containing a match 3 winning row is entitled to a prize amount the approximate number of which are as follows:

Matching Play Symbol in Match	Prize Amount	Approximate Number of Prizes
3 Winning Row		
3-pull-tabs	\$0.50	384,678
3-trolls	\$1	84,987
3-balls	\$10	4,473
3-bingo cards	\$20	4,473
3-bingo nuts	\$125	4,473

SECTION 7. A total of approximately three million (3,000,000) pull-tab tickets will be initially available for pull-tab game number 007. The odds of winning a prize in pull-tab game 007 are approximately 1 in 6.22. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

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## Emergency Rules

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SECTION 8. The last day to claim prizes in pull-tab game number 007 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any instant ticket retailer.

*LSA Document #03-141(E)*  
*Filed with Secretary of State: May 30, 2003, 10:50 a.m.*

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### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-142(E)

#### DIGEST

Temporarily adds rules concerning pull-tab game number 090. Effective May 30, 2003.

SECTION 1. The name of this pull-tab game is "Pull-Tab Game Number 090, Casino Wizard".

SECTION 2. Pull-tab tickets for pull-tab game number 090 shall sell for twenty-five cents (\$0.25) per ticket.

SECTION 3. Pull-tab game number 090 is a match 3 game.

SECTION 4. A pull-tab ticket in pull-tab game number 090 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 090 shall consist of the following possible play symbols:

- (1) A picture of a billboard  
CASINO WIZARD
- (2) A picture of dice  
DICE
- (3) A picture of a rabbit  
RABBIT
- (4) A picture of a wizard  
WIZARD
- (5) A picture of playing cards  
CARDS
- (6) A picture of a top hat  
TOP HAT
- (7) A picture of a set of rings  
RINGS

SECTION 5. A row on a pull-tab ticket in pull-tab game number 090 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:

- (1) The play symbols and play symbol captions in the row

are consistent with those specified in section 4 of this rule [document].

- (2) The three (3) play symbols and play symbol captions in the row are bisected by a red arrow.

- (3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. Subject to section 5 of this rule [document], the holder of a valid pull-tab ticket for pull-tab game number 090 containing a match 3 winning row is entitled to a prize amount the approximate number of which are as follows:

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
3 wizards	\$0.25	536,760
3 rabbits	\$1	89,460
3 dice	\$10	11,928
3 casino wizards	\$50	5,964

SECTION 7. A total of approximately four million (4,000,000) pull-tab tickets will be initially available for pull-tab game number 090. The odds of winning a prize in pull-tab game 090 are approximately 1 in 6.22. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.

SECTION 8. The last day to claim prizes in pull-tab game number 090 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the commission's toll-free customer service number or from any pull-tab ticket retailer.

*LSA Document #03-142(E)*  
*Filed with Secretary of State: May 30, 2003, 10:52 a.m.*

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### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-143(E)

#### DIGEST

Temporarily adds rules concerning instant game number 642. Effective May 30, 2003.

SECTION 1. The name of this instant game is "Instant Game Number 642, Five Grand".

SECTION 2. Instant tickets in instant game number 642 shall sell for one dollar (\$1) per ticket.

SECTION 3. Each instant ticket in instant game number 642

## Emergency Rules

shall contain nine (9) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. The play symbols and play symbol captions in instant game number 642 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00  
ONE
- (2) \$2.00  
TWO
- (3) \$3.00  
THREE
- (4) \$5.00  
FIVE
- (5) \$10.00  
TEN
- (6) \$20.00  
TWENTY
- (7) \$50.00  
FIFTY
- (8) \$100  
ONE HUN
- (9) \$500  
FIVE HUN
- (10) \$1,000  
ONE THOU
- (11) \$5,000  
FIVE THOU
- (12) A picture of a dollar bill  
TRIPLE

SECTION 4. The holder of a ticket in instant game number 642 shall remove the latex material covering the nine (9) play symbols and play symbol captions. If three (3) matching play symbols and play symbol captions are exposed, the holder is entitled to a prize of the matched amount. If two (2) matching play symbols and play symbol captions and the play symbol of a dollar bill are exposed, the holder is entitled to a prize of triple the matched prize amount. The prize amounts and number of winners in instant game number 642 are as follows:

Matched Play Symbols	Prize Amount	Approximate Number of Winners
3-\$1.00	\$1	540,000
3-\$2.00	\$2	36,000
3-\$3.00	\$3	24,000
2-\$1.00 + triple	\$3	24,000
3-\$5.00	\$5	48,000
2-\$2.00 + triple	\$6	24,000
3-\$10.00	\$10	12,000
2-\$5.00 + triple	\$15	12,000
3-\$20.00	\$20	12,000
3-\$50.00	\$50	6,165
3-\$100	\$100	750

3-\$500	\$500	15
3-\$1,000	\$1,000	10
3-\$5,000	\$5,000	5

SECTION 5. (a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 642.

(b) The odds of winning a prize in instant game number 642 are approximately 1 in 4.87.

(c) All reorders of tickets for instant game number 642 shall have the same:

- (1) prize structure;
  - (2) number of prizes per prize pool of two hundred forty thousand (240,000); and
  - (3) odds;
- as contained in the initial order.

SECTION 6. The last day to claim a prize in instant game number 642 is February 28, 2004.

SECTION 7. SECTIONS 1 through 6 of this document expire March 31, 2004.

*LSA Document #03-143(E)*

*Filed with Secretary of State: May 30, 2003, 10:55 a.m.*

### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-144(E)

#### DIGEST

Temporarily adds rules concerning instant game number 644. Effective May 30, 2003.

SECTION 1. The name of this instant game is "Instant Game Number 644, Fast Cash".

SECTION 2. Instant tickets in instant game number 644 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 644 shall contain twenty-two (22) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Ten (10) play symbols and play symbol captions shall appear in the column labeled "YOUR NUMBERS"; ten (10) play symbols and play symbol captions shall appear in the column labeled "PRIZE".

## Emergency Rules

(b) The play symbols and play symbol captions in instant game number 644, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1  
ONE
- (2) 2  
TWO
- (3) 3  
THR
- (4) 4  
FOR
- (5) 5  
FIV
- (6) 6  
SIX
- (7) 7  
SVN
- (8) 8  
EGT
- (9) 9  
NIN
- (10) 10  
TEN
- (11) 11  
ELV
- (12) 12  
TLV
- (13) 13  
TRN
- (14) 14  
FRN
- (15) 15  
FTN
- (16) 16  
SXT
- (17) 17  
SVT
- (18) 18  
ETN
- (19) 19  
NTN
- (20) 20  
TWY
- (21) A picture of a bill  
WIN \$50

(c) The play symbols and play symbol captions representing prize amounts in instant game number 644 shall consist of the following possible play symbols and play symbol captions:

- (1) \$2.00  
TWO
- (2) \$3.00  
THREE

- (3) \$4.00  
FOUR
- (4) \$5.00  
FIVE
- (5) \$10.00  
TEN
- (6) \$20.00  
TWENTY
- (7) \$25.00  
TWY FIVE
- (8) \$50.00  
FIFTY
- (9) \$100  
ONE HUN
- (10) \$500  
FIVE HUN
- (11) \$10,000  
TEN THOU

SECTION 4. The holder of a valid instant ticket in instant game number 644 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If one (1) or more of "YOUR NUMBERS" match either of the "WINNING NUMBERS", the holder is entitled to the corresponding prize amount in the prize column. If the play symbol of a picture of a bill is exposed in the "YOUR NUMBERS" area, the holder is automatically entitled to fifty dollars (\$50). The matched prize play symbols, prize amounts, and number of winners in instant game number 644 are as follows:

Number of Matches and Matched Symbols	Total Prize Amount	Approximate Number of Winners
1-\$2.00	\$2	201,600
1-\$4.00	\$4	151,200
1-\$2.00 + 1-\$3.00	\$5	50,400
1-\$5.00	\$5	37,800
5-\$2.00	\$10	12,600
1-\$2.00 + 2-\$4	\$10	6,300
2-\$5.00	\$10	6,300
1-\$10.00	\$10	12,600
10-\$2.00	\$20	12,600
5-\$4.00	\$20	12,600
4-\$5.00	\$20	6,300
2-\$10.00	\$20	6,300
1-\$20.00	\$20	6,300
2-\$25.00	\$50	2,100
1-bill symbol	\$50	2,100
1-\$50.00	\$50	2,100
5-\$10.00 + 1-bill symbol	\$100	315
10-\$10.00	\$100	315
2-\$50.00	\$100	315

1-\$100	\$100	315
4-\$100 + 1- \$50 + 1-bill symbol	\$500	20
5-\$100	\$500	20
1-\$500	\$500	20
10-\$100	\$1,000	11
1-\$10,000	\$10,000	6

SECTION 5. (a) There shall be approximately two million five hundred thousand (2,500,000) instant tickets initially available in instant game number 644.

(b) The odds of winning a prize in instant game number 644 are approximately 1 in 4.75.

(c) All reorders of tickets for instant game number 644 shall have the same:

- (1) prize structure;
  - (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
  - (3) odds;
- as contained in the initial order.

SECTION 6. The last day to claim a prize in instant game number 644 is February 28, 2004.

SECTION 7. SECTIONS 1 through 6 of this document expire March 31, 2004.

*LSA Document #03-144(E)*  
*Filed with Secretary of State: May 30, 2003, 10:56 a.m.*

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**TITLE 65 STATE LOTTERY COMMISSION**

LSA Document #03-145(E)

**DIGEST**

Temporarily adds rules concerning instant game number 651. Effective May 30, 2003.

SECTION 1. The name of this instant game is "Instant Game Number 651, Sapphire Blue 7s".

SECTION 2. Instant tickets in instant game number 651 shall sell for two dollars (\$2) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 651 shall contain twenty (20) play symbols and play symbol captions arranged in pairs of numbers and prize amounts all concealed under a large spot of latex material. Twenty (20) play symbols and play symbol captions shall appear in a matrix of ten (10) rows and two (2) columns.

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1  
ONE
- (2) 2  
TWO
- (3) 3  
THREE
- (4) 4  
FOUR
- (5) 5  
FIVE
- (6) 6  
SIX
- (7) 7  
BESVN (blue seven)
- (8) 7  
BSEV (black seven)
- (9) 8  
EIGHT
- (10) 9  
NINE
- (11) 10  
TEN
- (12) 11  
ELEVN
- (13) 12  
TWLV
- (14) 13  
THRTN
- (15) 14  
FORTN
- (16) 15  
FIFTN
- (17) 16  
SIXTN
- (18) 18  
EGTN
- (19) 19  
NINTN
- (20) 20  
TWTY

(c) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:

- (1) \$2.00  
TWO
- (2) \$3.00  
THREE
- (3) \$4.00  
FOUR
- (4) \$5.00  
FIVE

## Emergency Rules

- (5) \$10.00  
TEN
- (6) \$20.00  
TWENTY
- (7) \$50.00  
FIFTY
- (8) \$100  
ONE HUN
- (9) \$500  
FIVE HUN
- (10) \$1,000  
ONE THOU
- (11) \$15,000  
FTN THOU

SECTION 4. The holder of a ticket in instant game number 651 shall remove the latex material covering the twenty (20) play symbols and play symbol captions. If a play symbol of a black "7" is exposed, the holder is entitled to the paired prize amount shown. If a play symbol of a blue "7" is exposed, the holder is entitled to double the paired prize amount. A holder may win up to ten (10) times on a ticket. The prize amounts and number of winners in instant game number 651 are as follows:

Winning Prize Play Symbol	Prize Amount	Approximate Number of Winners
1-\$2.00	\$2	300,000
1-\$2.00 with blue 7	\$4	105,000
1-\$4.00	\$4	105,000
1-\$2.00 + 1-\$3.00	\$5	45,000
1-\$5.00	\$5	45,000
5-\$2.00	\$10	30,000
2-\$5.00	\$10	7,500
1-\$5.00 double	\$10	7,500
1-\$10.00	\$10	15,000
1-\$5.00 + 1-\$5.00 with blue 7	\$15	15,000
5-\$3.00	\$15	15,000
10-\$2.00	\$20	7,500
5-\$4.00	\$20	7,500
1-\$5.00 double + 1-\$10.00	\$20	7,500
1-\$20.00	\$20	7,500
10-\$5.00	\$50	1,000
1-\$10.00 + 1-\$20.00 with blue 7	\$50	1,000
1-\$50.00	\$50	1,000
10-\$10.00	\$100	250
1-\$50.00 with blue 7	\$100	250
2-\$50.00	\$100	125
1-\$100	\$100	125
5-\$100	\$500	12

1-\$500	\$500	12
1-\$500 with blue 7	\$1,000	8
1-\$1,000	\$1,000	8
1-\$15,000	\$15,000	5

SECTION 5. (a) There shall be approximately three million (3,000,000) instant tickets initially available in instant game number 651.

(b) The odds of winning a prize in instant game number 651 are approximately 1 in 4.14.

(c) All reorders of tickets for instant game number 651 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. The last day to claim a prize in instant game number 651 is February 28, 2004.

SECTION 7. SECTIONS 1 through 6 of this document expire March 31, 2004.

*LSA Document #03-145(E)*

*Filed with Secretary of State: May 30, 2003, 10:58 a.m.*

### TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-147(E)

#### DIGEST

Temporarily adds rules concerning instant game number 654. Effective June 3, 2003.

SECTION 1. The name of this instant game is "Instant Game Number 654, Corvette® Cash".

SECTION 2. Instant tickets in instant game number 654 shall sell for three dollars (\$3) per ticket.

SECTION 3. (a) Each instant ticket in instant game number 654 shall contain twenty-two (22) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Twenty (20) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" arranged in pairs representing numbers and prize amounts or a car.

(b) The play symbols and play symbol captions in instant

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game number 654, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1  
ONE
- (2) 2  
TWO
- (3) 3  
THR
- (4) 4  
FOR
- (5) 5  
FIV
- (6) 6  
SIX
- (7) 7  
SVN
- (8) 8  
EGT
- (9) 9  
NIN
- (10) 10  
TEN
- (11) 11  
ELVN
- (12) 12  
TWLV
- (13) 13  
THRTN
- (14) 14  
FORTN
- (15) 15  
FIFTN
- (16) 16  
SIXTN
- (17) 17  
SVNTN
- (18) 18  
EGHTN
- (19) 19  
NINTN
- (20) 20  
TWTY

- (5) \$5.00  
FIVE
- (6) \$6.00  
SIX
- (7) \$10.00  
TEN
- (8) \$20.00  
TWENTY
- (9) \$40.00  
FORTY
- (10) \$50.00  
FIFTY
- (11) \$100  
ONE HUN
- (12) \$500  
FIVE HUN
- (13) \$20,000  
TWY THOU
- (14) A picture of a car  
CONVERTIBLE

SECTION 4. The holder of a ticket in instant game number 654 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If one (1) or more of "YOUR NUMBERS" match either of the "WINNING NUMBERS", the holder is entitled to the prize paired with the matched number. The matched prize play symbols, prize amounts, and number of winners in instant game number 654 are as follows:

(c) The play symbols and play symbol captions representing prizes in instant game number 654 shall consist of the following possible play symbols and play symbol captions:

- (1) \$1.00  
ONE
- (2) \$2.00  
TWO
- (3) \$3.00  
THREE
- (4) \$4.00  
FOUR

Matched Prize Symbol	Prize Amount	Approximate Number of Winners
3-\$1.00	\$3	81,600
1-\$3.00	\$3	71,400
4-\$1.00	\$4	20,400
2- \$1.00 + 1-\$2.00	\$4	20,400
2-\$2.00	\$4	20,400
1-\$4.00	\$4	20,400
5-\$1.00	\$5	30,600
1-\$5.00	\$5	30,600
3-\$2.00	\$6	30,600
1-\$6.00	\$6	20,400
10-\$1.00	\$10	20,400
5-\$2.00	\$10	10,200
2-\$5.00	\$10	10,200
1-\$10.00	\$10	10,200
10-\$2.00	\$20	10,200
5-\$4.00	\$20	10,200
4-\$5.00	\$20	10,200
2-\$10.00	\$20	10,200
1-\$20.00	\$20	10,200
10-\$4.00	\$40	680

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8-\$5.00	\$40	680
4-\$10.00	\$40	680
2-\$20.00	\$40	680
1-\$40.00	\$40	680
10-\$10.00	\$100	340
5-\$20.00	\$100	340
2-\$50.00	\$100	340
1-\$100	\$100	340
1-\$500	\$500	85
1-\$20,000	\$20,000	8
1 picture of a car	A Corvette® convertible valued at \$75,000	2

SECTION 5. (a) There shall be approximately two million (2,000,000) instant tickets initially available in instant game number 654.

(b) The odds of winning a prize in instant game number 654 are approximately 1 in 4.50.

(c) All reorders of tickets for instant game number 654 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order.

SECTION 6. (a) The general counsel shall promulgate rules governing four (4) second chance drawings which will take place on or about July 10, August 7, September 4, and October 2, 2003. Players may enter the drawings by mailing one (1) nonwinning instant game 654 instant ticket in an envelope no larger than 9½" x 4½" to HL/Corvette® Cash Second Chance Contest, PMB 382, 899 South College Mall Road, Bloomington, Indiana 47401. The back of each such instant ticket must contain the player's name, address, and telephone number. Players may also enter on-line at [www.hoosierlottery.com](http://www.hoosierlottery.com) by joining the Hoosier Lottery VIP Club and entering the required information from a nonwinning instant game 654 instant ticket in the designated Corvette® Cash Second Chance Contest area along with the player's name, address, and telephone number. There is no limit on the number of times a player may enter a drawing, but a single instant ticket may be the source of only one (1) entry. Any entries received after the last drawing will be ineligible and destroyed.

(b) The first one hundred and forty (140) entries selected in each of the four (4) Corvette® Cash Second Chance Contests drawings shall be awarded the following prize package which includes the following:

A Corvette® leather jacket, a Corvette® his/her polo shirt, a Corvette® wall clock, a Corvette® fleece blanket,

a Corvette® sports watch, a Corvette® umbrella, and a Corvette® cap.

SECTION 7. The last day to claim a prize in instant game number 654 is May 31, 2004.

SECTION 8. SECTIONS 1 through 7 of this document expire June 30, 2004.

*LSA Document #03-147(E)*

*Filed with Secretary of State: June 3, 2003, 2:50 p.m.*

## TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-148(E)

### DIGEST

Adds 65 IAC 4-319 concerning instant game number 645. Effective June 3, 2003.

#### 65 IAC 4-319

SECTION 1. 65 IAC 4-319 IS ADDED TO READ AS FOLLOWS:

##### Rule 319. Instant Game 645

#### 65 IAC 4-319-1 Name

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 1. The name of this instant game is "Instant Game Number 645, Pyramid Cash".** (*State Lottery Commission; 65 IAC 4-319-1; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3360*)

#### 65 IAC 4-319-2 Ticket price

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 2. Instant tickets in instant game number 645 shall sell for seven dollars (\$7) per ticket.** (*State Lottery Commission; 65 IAC 4-319-2; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3360*)

#### 65 IAC 4-319-3 Instant ticket layout

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

**Sec. 3. (a) Each instant ticket in instant game number 645 shall contain forty-eight (48) play symbols and play symbol captions arranged among three (3) separate and independent games and one (1) "BONUS BOX" each concealed under a spot of latex material.**

(b) The game on the upper right side of each instant ticket

shall contain ten (10) play symbols and play symbol captions in the area labeled "YOUR NUMBERS" arranged in pairs of numbers and prize amounts. One (1) play symbol and play symbol caption in the area labeled "WHEEL NUMBER" representing numbers.

(c) The game in the middle of each instant ticket shall represent a slot machine and contain eighteen (18) play symbols and play symbol captions representing pictures of objects and two (2) play symbols and play symbol captions representing prize amounts.

(d) The game at the bottom of each instant ticket shall contain sixteen (16) play symbols and play symbol captions. One (1) play symbol and play symbol caption representing a number shall appear in the box labeled "DEALER'S TOTAL" surrounded by five (5) combinations of two (2) play symbols and play symbol captions representing playing cards paired with one (1) play symbol and play symbol caption representing a prize amount. The combinations shall be labeled "PLAYER 1", "PLAYER 2", "PLAYER 3", "PLAYER 4", and "PLAYER 5", respectively.

(e) The box in the upper left of each instant ticket shall be labeled "BONUS BOX" and shall contain one (1) play symbol and play symbol caption. (*State Lottery Commission; 65 IAC 4-319-3; emergency rule filed Jun 3, 2003, 2:50 p.m.; 26 IR 3360*)

**65 IAC 4-319-4 Play symbols and play symbol captions**

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 4. (a) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:

- (1) \$2.00  
TWO
- (2) \$3.00  
THREE
- (3) \$4.00  
FOUR
- (4) \$5.00  
FIVE
- (5) \$7.00  
SEVEN
- (6) \$10.00  
TEN
- (7) \$20.00  
TWENTY
- (8) \$40.00  
FORTY
- (9) \$50.00  
FIFTY
- (10) \$70.00  
SEVENTY

- (11) \$100  
ONE HUN
- (12) \$500  
FIVE HUN
- (13) \$1,000  
ONE THOU
- (14) \$2,000  
TWO THOU
- (15) \$70,000  
SVTY THOU

(b) The play symbols and play symbol captions appearing in the game in the upper right side of the instant ticket, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) 1  
ONE
- (2) 2  
TWO
- (3) 3  
THR
- (4) 4  
FOR
- (5) 5  
FIV
- (6) 6  
SIX
- (7) 7  
SVN
- (8) 8  
EGT
- (9) 9  
NIN
- (10) 10  
TEN
- (11) A picture of a roulette wheel  
WIN

(c) The play symbols and play symbol captions appearing in the game in the middle of the instant ticket, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

- (1) A picture of a bunch of cherries  
CHRY
- (2) A picture of an orange  
ORNG
- (3) A picture of a dollar sign  
MONY
- (4) A picture of a star  
STAR
- (5) A picture of a bell  
BELL
- (6) A picture of a 7  
SVN

## Emergency Rules

- (7) A picture of a bar  
BAR
- (8) A picture of a pot of gold  
GOLD

(d) The play symbols and play symbol captions appearing in the game at the bottom of the instant ticket, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1)	2 TWO
(2)	3 THR
(3)	4 FOR
(4)	5 FIV
(5)	6 SIX
(6)	7 SVN
(7)	8 EGT
(8)	9 NIN
(9)	10 TEN
(10)	J JCK
(11)	Q QUN
(12)	K KNG
(13)	A ACE

(e) The play symbol and play symbol caption appearing in the "BONUS BOX" shall consist of the following possible play symbols and play symbol captions:

- (1) LUXOR  
TRIP
- (2) TRY  
AGAIN

*(State Lottery Commission; 65 IAC 4-319-4; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3361)*

### 65 IAC 4-319-5 How to play

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 5. (a) The holder of a ticket in instant game number 645 shall remove the latex material covering the forty-eight (48) play symbols and play symbol captions.

(b) If, in the upper right hand game, any of "YOUR NUMBERS" match the "WHEEL NUMBER", the holder is entitled to the associated prize amount(s). If a play symbol of a picture of a pot of gold is exposed, the holder is automatically entitled to the associated prize amount.

(c) If, in the middle game, three (3) matching play symbols and play symbol captions are exposed in any row across, the holder is entitled to the associated prize amount.

(d) If, in the bottom game, the total numerical value of the playing cards associated with "PLAYER 1", "PLAYER 2", "PLAYER 3", "PLAYER 4", or "PLAYER 5" is higher than the "DEALER'S TOTAL", the holder is entitled to the associated prize. If the total numerical value of the playing cards total twenty-one (21), blackjack, the holder is automatically entitled to the associated prize amount. Play symbols and play symbol captions representing playing cards are valued in descending order with aces as the high cards and face cards valued at ten (10).

(e) If, in the Bonus Box the play symbol "Luxor" is exposed, the holder is entitled to a trip to Las Vegas for two (2) adults which includes round-trip, coach airfare, deluxe double occupancy room at Luxor® Hotel for four (4) days and three (3) nights, ground transfer between Las Vegas airport and the hotel, and three hundred dollars (\$300) spending money. Details for trip arrangements shall be made available at the time the trip is claimed. There is no cash option for this prize. *(State Lottery Commission; 65 IAC 4-319-5; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3362)*

### 65 IAC 4-319-6 Prizes

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 6. The winning games, number of winning plays, total prize amounts, and approximate number of winners in instant game number 645 are as follows:

Winning Games and Prize Play Symbols	Total Prize Amount	Approximate Number of Winners
1-\$2.00 + 1-\$5.00	\$7	86,400
1-\$7.00	\$7	64,800
5-\$2.00	\$10	21,600
2-\$5.00	\$10	21,600
1-\$10.00	\$10	10,800
2-\$7.00	\$14	10,800
2-\$2.00 + 2-\$5.00	\$14	5,400
2-\$2.00 + 1-\$10.00	\$14	5,400
5-\$4.00	\$20	10,800
4-\$5.00	\$20	5,400
2-\$10.00	\$20	5,400

1-\$20.00	\$20	5,400
10-\$3.00 + 2-\$5.00	\$40	1,800
4-\$10.00	\$40	1,800
2-\$20.00	\$40	1,800
1-\$40.00	\$40	1,800
10-\$5.00 + 2-\$10.00	\$70	6,705
1-\$10.00 + 3-\$20.00	\$70	6,705
1-\$20.00 + 1-\$50.00	\$70	6,705
1-\$70.00	\$70	6,705
10-\$50.00 + 2-\$100	\$700	8
2-\$100 + 1-\$500	\$700	8
7-\$100	\$700	8
2-\$500	\$1,000	5
1-\$1,000	\$1,000	5
5-\$1,000 + 1-\$2,000	\$7,000	4
7-\$1,000	\$7,000	4
1-\$70,000	\$70,000	3
1-Luxor Symbol	A Las	184
	Vegas trip valued at 3,170.27	

(State Lottery Commission; 65 IAC 4-319-6; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3362)

**65 IAC 4-319-7 Number of ticket; odds; reorders**

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 7. (a) There shall be approximately one million (1,000,000) instant tickets initially available in instant game number 645.

(b) The odds of winning a prize in instant game number 645 are approximately 1 in 3.75.

(c) All reorders of tickets for instant game number 645 shall have the same:

- (1) prize structure;
- (2) number of prizes per prize pool of two hundred twenty thousand (120,000); and
- (3) odds;

as contained in the initial order. (State Lottery Commission; 65 IAC 4-319-7; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3363)

**65 IAC 4-319-8 Last day to claim prizes**

Authority: IC 4-30-3-7; IC 4-30-3-9  
Affected: IC 4-30

Sec. 8. Players will have up to sixty (60) days from the end of instant game 645 within which to claim their prizes. The last day to claim a prize in instant game number 645 is sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at [www.hoosierlottery.com](http://www.hoosierlottery.com) or may be obtained through the

commission's toll-free customer service number or from any instant ticket retailer. (State Lottery Commission; 65 IAC 4-319-8; emergency rule filed Jun 3, 2003, 2:50 p.m.: 26 IR 3363)

LSA Document #03-148(E)

Filed with Secretary of State: June 3, 2003, 2:50 p.m.

**TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH**

LSA Document #03-120(E)

DIGEST

Temporarily amends 345 IAC 1-3-30 by continuing provisions to prohibit the movement of cervids, cervid semen, and cervid embryos into Indiana. Authority: IC 15-2.1-18-21. Effective April 30, 2003.

**SECTION 1. For the purpose of this document the following apply:**

- (1) "Board" means the Indiana state board of animal health created under IC 15-2.1-3.
- (2) "Chronic wasting disease" and "CWD" mean a transmissible spongiform encephalopathy of cervids.
- (3) "State veterinarian" means the state veterinarian appointed under IC 15-2.1-4 and all authorized agents.

**SECTION 2. Chronic wasting disease (CWD) is not known to exist in the state. CWD has been diagnosed in captive and wild cervids in other states and Canadian provinces. CWD presents a health hazard to the animals of the state that could result in substantial damage to the domestic cervid industry in the state and the state's wild cervid population. Preventing the spread of CWD from cervids in other states is the best currently available method for addressing the CWD threat to animals in the state. The state veterinarian shall continue to evaluate the risks associated with CWD and the available methods for protecting animals in the state from CWD. The state veterinarian shall update the board on his findings. In the interim, because of the current CWD threat, the board temporarily adopts the following restrictions to protect the animals of the state from CWD:**

- (1) Notwithstanding 345 IAC 1-3, a person may not move a cervid into the state. A person may not move cervid semen or cervid embryos into the state.
- (2) Notwithstanding subdivision (1), the following apply:
  - (A) A person may transport a cervid, cervid semen, and cervid embryos directly through the state without stopping and unloading the animal, semen, or embryos in the state.
  - (B) Cervid semen and cervid embryos sent out of the

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## Emergency Rules

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state for processing and storage may be brought back into the state if the following conditions are met:

- (i) The person must first apply to the state veterinarian for a pre-entry permit to bring the cervid semen or embryos into the state. The state veterinarian may require from the applicant any information that is relevant to evaluating the disease risk associated with the movement. The state veterinarian may require that the application for a permit be in writing and be submitted not less than forty-eight (48) hours prior to the movement date.
  - (ii) The cervid semen or embryos may not be moved into the state unless the state veterinarian issues a pre-entry permit for the movement.
  - (iii) The state veterinarian may issue a pre-entry permit to move cervid semen and cervid embryos into the state if the epidemiology as it relates to CWD indicates that the proposed movement is consistent with reasonable animal health precautions.
- (C) The state veterinarian may permit the movement of any animal, semen, or embryo into the state for the purpose of research or to facilitate the diagnosis, treatment, prevention, or control of disease.

**SECTION 3. SECTIONS 1 and 2 of this document expire July 29, 2003.**

*LSA Document #03-120(E)*

*Filed with Secretary of State: April 30, 2003, 10:30 a.m.*

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### TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #03-158(E)

#### DIGEST

Temporarily adds provisions that prohibit or limit the movement of prairie dogs and Gambian rats and exposed animals into and within the state. Permits the state veterinarian to require cleaning and disinfecting of conveyances. Authority: IC 15-2.1-18-21. Effective June 9, 2003.

**SECTION 1. The definitions in IC 15-2.1-2 and this SECTION apply throughout this document:**

- (1) "Board" means the Indiana state board of animal health appointed under IC 15-2.1-3.
- (2) "State veterinarian" means the state veterinarian appointed under IC 15-2.1-4.

**SECTION 2. The United States Centers for Disease Control and Prevention (CDC) has diagnosed monkeypox in animals that have been distributed throughout the United States. Monkeypox presents a definite health hazard to the citizens and animals of Indiana. The board of animal health is enacting the following emergency provisions to protect the citizens and animals of Indiana from the threat of monkeypox infection:**

- (1) Notwithstanding 345 IAC 1-3, no person may move a prairie dog or Gambian rat into the state.
- (2) No person may sell, offer for sale, distribute in any manner, or release into the wild prairie dogs or Gambian rats.
- (3) No person may display, exhibit, or engage in other activity if the activity could result in direct human contact with prairie dogs or Gambian rats acquired since April 1, 2003.
- (4) A person may not do any of the following:
  - (A) Move an animal that has been exposed to a prairie dog or Gambian rat acquired since April 1, 2003, into the state.
  - (B) Sell, distribute in any manner, or release into the wild an animal that has been exposed to a prairie dog or Gambian rat acquired since April 1, 2003.
  - (C) Display, exhibit, or engage in other activity if the activity could result in direct human contact with an animal that has been exposed to a prairie dog or Gambian rat acquired since April 1, 2003.

**SECTION 3. SECTIONS 1 and 2 of this document expire July 11, 2003.**

*LSA Document #03-158(E)*

*Filed with Secretary of State: June 9, 2003, 8:03 p.m.*

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**TITLE 405 OFFICE OF THE SECRETARY OF  
FAMILY AND SOCIAL SERVICES**

LSA Document #02-340

Under IC 12-8-3-4.4, LSA Document #02-340, printed at 26 IR 2099, which amends 405 IAC 1-14.6 to revise the Medicaid nursing facility case mix reimbursement methodology to increase the minimum occupancy parameter for the direct care, indirect care, and administrative rate components; eliminates the provision that disallows annual rebasing of rates; extends the date for application of the historical cost inflation reduction factor; and removes profit add-on from direct care component. The rule which was adopted on May 12, 2003, is in a different version than the proposed rule which was published in the Indiana Register on March 1, 2003.

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**TITLE 470 DIVISION OF FAMILY AND CHILDREN**

LSA Document #02-298

Under IC 12-8-3-4.4, LSA Document #02-298, printed at 26 IR 1675, adding 470 IAC 3-4.7 concerning the licensure of child care centers was adopted by the director of the division of family and children on May 22, 2003. The rule adopted is a version different from the proposed rule which was published in the Indiana Register on February 1, 2003.

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## Change in Notice of Public Hearing

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### TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #02-327

The Water Pollution Control Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #02-327, printed at 26 IR 3093, has been changed. The changed Notice of Public Hearing appears below:

#### *Notice of Public Hearing*

*Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on **August 7, 2003** at 1:30 p.m., in the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a special meeting of the board and conduct a public hearing on proposed new rule 327 IAC 15-14 and amendments to rules concerning on-site residential sewage discharging disposal systems in Allen County.*

*The purpose of this hearing is to receive comments from the public prior to the board's consideration of final adoption of these rules. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposal to final adopt the new rule and amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.*

*Technical information regarding this action can be obtained from Jay Hanko, Municipal Permit Section, Office of Water Quality, (317) 233-0470 or (800) 451-6027 (in Indiana). Additional information regarding this action can be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015*

*or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file with the Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West, Room 1255 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis,*

*Indiana and are open for public inspection.*

Tim Method  
Deputy Commissioner  
Indiana Department of Environmental Management

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### TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #00-185

The Solid Waste Management Board hereby gives notice that the date of the public hearing for consideration of proposed rule LSA Document #00-185, printed at 26 IR 430, November 1, 2002, has been changed. The changed Notice of Hearing appears below:

#### *Notice of Public Hearing*

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on July 15, 2003 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to 329 IAC 10. This rulemaking concerns substantive changes to the rules for municipal solid waste landfills.*

*The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

*Additional information regarding this action may be obtained from Pam Koons, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015*

*or call (317) 233-0855 (V) or (317) 232-6565 (TDD). Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file at the Indiana Department of Environmental Management, Indiana Government*

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## Change in Notice of Public Hearing

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Center-North, 100 North Senate Avenue, Twelfth Floor West, Central File Room and the Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

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### TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #01-161

The Solid Waste Management Board (board) gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-161, printed at 26 IR 1201, has been changed. The hearing for final adoption concerning amendments to rules for underground storage tanks at 329 IAC 9, printed at 26 IR 1201, was opened on February 18, 2003, and continued to the March 18, 2003, board meeting. Because no board business could be conducted at the March 18, 2003, board meeting, the hearing was continued to the April 15, 2003, board meeting. Because the April 15, 2003, board meeting was canceled, the hearing was renoticed for the May 20, 2003, board meeting. Because the May board meeting was canceled, the hearing was renoticed for the board meeting of June 17, 2003. Because the June board meeting is being canceled, the hearing is being renoticed for the board meeting of July 15, 2003. The hearing will be held at a regular meeting of the board on July 15, 2003, at 1:30 p.m. in Conference Center Room A, Indiana Government Center-South, 402 West Washington Street, Indianapolis, Indiana. If the date of this hearing is changed, it will be noticed in the Change of Notice of Public Hearing section of the Indiana Register. Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on **July 15, 2003** at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to rules for underground storage tanks at 329 IAC 9.*

*The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments and new language. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

*Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, 317-232-3593 or (800) 451-6027, press 0, and ask for ext. 2-3593 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: ADA Coordinator*

*Indiana Department of Environmental Management*

*100 North Senate Avenue*

*P.O. Box 6015*

*Indianapolis, Indiana 46206-6015*

*or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file with the Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Bruce H. Palin

Deputy Assistant Commissioner

Office of Land Quality

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### TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #02-235

The Solid Waste Management Board (board) hereby gives notice that the date of the public hearing for consideration of final adoption of LSA Document #02-235, printed at 26 IR 1239, has been changed. This rule concerns amendments to the rules for hazardous waste management at 329 IAC 3.1, commonly known as the 2002 Hazardous Waste Annual Update. Due to cancellation of the June 17, 2003, meeting of the board, the hearing will now be held on July 15, 2003. If the date of this hearing is changed, it will be noticed in the Change in Notice of Public Hearing section of the Indiana Register. The new Notice of Public Hearing appears below:

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on **July 15, 2003** at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on*

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## Change in Notice of Public Hearing

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proposed amendments to 329 IAC 3.1.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin  
Deputy Assistant Commissioner  
Office of Land Quality

rules to establish the requirements pertaining to the disposition of excremental and sewage matter through the design, installation, construction, maintenance, and operation of commercial facility, residential, cluster, and experimental and alternative technology on-site sewage systems. Copies of these rules are now on file at the Consumer Protection Division of the Health Care Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are now open for public inspection.

Gregory A. Wilson, M.D.  
State Health Commissioner  
Indiana State Department of Health

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-321

The Indiana State Department of Health gives notice that the date of the public hearing for LSA Document #02-321, printed at 26 IR 3116, has been changed. The changed Notice of Public Hearing appears below:

#### **Notice of Public Hearing**

Under IC 4-22-2-24, notice is hereby given that on July 1, 2003 at 1:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana; **AND** on July 30, 2003 at 11:00 a.m., at the LaPorte County Annex and Security Center, 809 State Street, Commissioners Meeting Room, LaPorte, Indiana; **AND** on August 6, 2003, at 10:00 a.m., at Seymour High School, 1350 West Second Street, Auditorium, Seymour, Indiana the Indiana State Department of Health will hold a public hearing on proposed

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## Notice of Intent to Adopt a Rule

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-166

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 10 IAC 1.5 governing unclaimed property to establish filing dates for reports required by holders of property. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [jhudson@atg.state.in.us](mailto:jhudson@atg.state.in.us). Statutory authority: IC 32-34-1-52; IC 4-22-2-19(b).

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-167

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 10 IAC 3-1-1 relating to the form for filing tort claims against the state. The rule will update the form. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Office of the Indiana Attorney General, ATTENTION: Mike Ward, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [mward@atg.state.in.us](mailto:mward@atg.state.in.us). Statutory authority: IC 34-13-3-6.

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-174

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 10 IAC 1.5 governing unclaimed property to establish requirements and procedures for disclaimer of property. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government

Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [jhudson@atg.state.in.us](mailto:jhudson@atg.state.in.us). Statutory authority: IC 32-34-1-52.

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-175

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 10 IAC 1.5 governing unclaimed property to add provisions relating to the payment or delivery of property without filing a claim when the owner has been identified by the attorney general. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [jhudson@atg.state.in.us](mailto:jhudson@atg.state.in.us). Statutory authority: IC 32-34-1-52.

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### TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

LSA Document #03-165

Under IC 4-22-2-23, the Consumer Protection Division of the Office of the Attorney General intends to adopt a rule concerning the following:

**OVERVIEW:** The rule will add 11 IAC 3 relating to the regulation of professional fundraiser consultants and professional solicitors. Among other things, the rule will define certain terms. The rule will concern imposing fines on professional fundraiser consultants and professional solicitors as permitted by IC 23-7-8. The rule will also concern the establishment of requirements for the registration report, solicitation notice report, financial report, and any other report that is to be filed with the Consumer Protection Division of the Office of the Attorney General. Public comments are invited and may be directed to the Office of the Attorney General, ATTENTION: Roger D. Smith, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [rsmith@atg.state.in.us](mailto:rsmith@atg.state.in.us). Statutory authority: IC 23-7-8-8; IC 4-6-9-8.

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## Notice of Intent to Adopt a Rule

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### TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #03-156

Under IC 4-22-2-23, the Department of Local Government Finance intends to adopt a rule concerning the following:

**OVERVIEW:** Under the authority of IC 6-1.1-3-22, the Department of Local Government Finance intends to amend 50 IAC 4.2, concerning the assessment of tangible personal property, as enacted by HB 1858 (special property tax valuation method for certain integrated steel mills and oil refinery/petrochemical equipment) and HEA 1714 (reinstate 50 IAC 4.2 as a rule). The Department of Local Government Finance plans to implement these recent legislative changes through this rule as an effort to minimize potential confusion and uncertainty regarding the application of portions of the statute. The contemplated rule will also clarify technical uncertainties, as well as clear-up any clerical inconsistencies that exist between the statute and the administrative code. The Department of Local Government Finance invites written submissions expressing your views on these matters. Questions or comments may be directed to Heather Scheel, General Counsel, Department of Local Government Finance, at 100 North Senate Avenue, Room 1058, Indianapolis, Indiana 46204 or [hscheel@tcb.state.in.us](mailto:hscheel@tcb.state.in.us). Telephone number: 317-232-5895.

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### TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #03-157

Under IC 4-22-2-23, the Department of Local Government Finance intends to adopt a rule concerning the following:

**OVERVIEW:** Adds 50 IAC 20 concerning standards for determining exemptions and whether tangible property used by an exempt organization in a trade or business is substantially related to the exercise or performance of the organization's exempt purpose. This rule will address requirements for the report of exempt property in taxing districts pursuant to SECTION 114 of P.L.198-2001, that requires the Department to publish a report, before November 1, 2004, listing the assessed value of all exempt property in each taxing district in the state listed in the tax duplicate prepared under IC 6-1.1-22-3 for March 1, 2004. This rule will also provide guidelines for each county assessor to follow when annually notifying the Department of certain lease agreements with regards to real property under IC 6-1.1-11-3.8. In addition, HEA 2005 amends IC 6-1.1-11-8 and instructs the Department to forward a report of all reviewed exempt applications to the Legislative Services Agency by August 1. This rule will set out guidelines to ensure assessments are made in accordance with Indiana law and

provide for just valuations. The Department of Local Government Finance invites written submissions expressing your views on these matters. Questions or comments may be directed to Heather Scheel, General Counsel, Department of Local Government Finance, at 100 North Senate Avenue, Room 1058, Indianapolis, Indiana 46204 or [hscheel@tcb.state.in.us](mailto:hscheel@tcb.state.in.us). Telephone number: 317-233-5895. Statutory authority: IC 6-1.1-10-36.5; P.L.198-2001, SECTION 114; IC 6-1.1-31-1; IC 6-1.1-11-3.8; IC 6-1.1-11-8.

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### TITLE 280 PUBLIC SAFETY TRAINING INSTITUTE

LSA Document #03-159

Under IC 4-22-2-23, the Public Safety Training Institute intends to adopt a rule concerning the following:

**OVERVIEW:** Would amend 280 IAC 1 to make substantive and technical revisions and to clarify the requirements and provisions applicable to the public safety training institute and the certifications it issues and to establish fee schedules and charges for items and services provided by the public safety training board and training and other activities conducted by the public safety training institute. Questions or comments on the adoption may be directed by mail to Brad Gavin, Indiana Public Safety Training Board, Indiana Government Center-South, 302 West Washington Street, Room E208, Indianapolis, Indiana 46204 or by electronic mail to [bgavin@sema.state.in.us](mailto:bgavin@sema.state.in.us). Statutory authority: IC 5-2-10.5-21; IC 5-2-10.5-22.

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-149

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Amends the provisions within 312 IAC 9-10-4 that govern game breeder licenses. Amendments indicate which species of wild animal can be kept under a game breeder license. Amendments are also made to regulate the importation of a wild animal, requiring documentation when transporting wild animals, restricting the release of wild animals held under this license, requiring compliance with other applicable state, local, and federal laws, and identifying causes for which a license can be suspended or revoked. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 232-4699 or e-mail [jkane@dnr.state.in.us](mailto:jkane@dnr.state.in.us). Statutory authority: IC 14-10-2-4; IC 14-24-3.

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## Notice of Intent to Adopt a Rule

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### TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-169

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 312 IAC 25-6-31 to remove a requirement that revised blasting schedules be approved by the director before publication while retaining all requirements concerning the contents of that notice. Amends 312 IAC 25-9-5 to require individuals seeking blaster certification who fail the examination three times to retake the training course for certification. Amends 312 IAC 25-9-8 to add continuing education requirements to maintain and to provide that individuals who had certifications that have been expired for more than five years must complete the entire certification and training process as a new applicant. Public questions and comments may be sent to the Division of Hearings, Natural Resources Commission, 402 West Washington Street, Room W272, Indianapolis, Indiana 46204, by e-mail at [jkane@dnr.state.in.us](mailto:jkane@dnr.state.in.us), or by telephone at (317) 232-4699. Statutory authority: IC 14-34-2-1.

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### TITLE 315 OFFICE OF ENVIRONMENTAL ADJUDICATION

LSA Document #03-152

Under IC 4-22-2-23, the Office of Environmental Adjudication intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 315 IAC 1-3-3 to permit the filing of an original petition for review by fax followed by a hard copy; amends 315 IAC 1-3-12 to allow the environmental law judge to grant a continuance upon a showing of good cause. In addition corrects errata remaining in the rule. Statutory authority: IC 4-21.5-7-7 to supplement and clarify the requirements of IC 4-21.5.

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### TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #03-163

Under IC 4-22-2-23, the Indiana State Board of Animal Health intends to adopt a rule concerning the following:

**OVERVIEW:** The rule will address the detection, control, and eradication of chronic wasting disease in animals. The rule may include limiting or prohibiting movement of animals and animal parts, requiring registration of sites housing certain species of animals, measures to control contact with wild

cervidae, identification of animals, record keeping, testing, herd certification, and chronic wasting disease surveillance in herds. Questions or comments on the subject may be directed by mail to the Indiana State Board of Animal Health, ATTENTION: Legal Affairs, 805 Beachway Drive, Suite 50, Indianapolis, Indiana 46224 or by electronic mail to [ghaynes@boah.state.in.us](mailto:ghaynes@boah.state.in.us). Statutory authority: IC 15-2.1-3-19.

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #03-164

Under IC 4-22-2-23, the Office of the Secretary of Family and Social Services intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 405 IAC 1-8-3 to eliminate outpatient reimbursement for outpatient hospital and ambulatory surgical center services occurring within three (3) calendar days of an inpatient admission for the same or related diagnosis. Also clarifies that rates are paid based on the most current fee schedule and eliminates references to bases for initial rate setting in 1994. Also makes nonsubstantive changes and clarifications to reflect current operant policies. Amends 405 IAC 1-10.5-2 and 405 IAC 1-10.5-3 to define marginal cost factor; clarify the definition of a Medicaid day; modify inpatient reimbursement to pay the lower of provider charges or Diagnosis Related Grouping (DRG) and Level of Care (LOC) inpatient rates; include the costs of outpatient hospital and ambulatory surgical center services that lead to an inpatient admission when determining DRG relative weights; indicate that readmissions for the same or related diagnoses within three (3) calendar days after discharge will be treated as the same admission for payment purposes; eliminate DRG payments for Medicaid recipients subsequent to their return from a transferee hospital; and changes the reimbursement methodology for inpatient hospital stays less than one-day to the outpatient methodology. Also removes outdated references to initial rate setting methodologies. The amendments include conforming changes and other nonsubstantive changes to reflect current operant policies. Statutory authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3.

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-161

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

**OVERVIEW:** Adopts rules regarding procedures subsequent

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## Notice of Intent to Adopt a Rule

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to the testing of pregnant women for HIV and standards regarding the provision of information concerning HIV to women who are pregnant, before delivery, at delivery, and after delivery. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: HIV Division, Indiana State Department of Health, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-41-6-11.

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### **TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES**

LSA Document #03-153

Under IC 4-22-2-23, the Division of Disability, Aging, and Rehabilitative Services intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 460 IAC 6 concerning requirements and qualifications for providers of supported living services and supports and adds a code of ethics for providers of supported living services and supports. Statutory authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12.

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### **TITLE 511 INDIANA STATE BOARD OF EDUCATION**

LSA Document #03-150

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 511 IAC 6-7-6.1 to require students who enter high school after June 30, 2004, to complete Algebra 1. Statutory authority: IC 20-1-1-6.

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### **TITLE 511 INDIANA STATE BOARD OF EDUCATION**

LSA Document #03-151

Under IC 4-22-2-23, the Indiana State Board of Education intends to adopt a rule concerning the following:

**OVERVIEW:** Amends the following approved high school courses: 511 IAC 6.1-5.1-9 dealing with business technology education and technology education and 511 IAC 6.1-5.1-10.1 dealing with vocational-technical courses. Statutory authority: IC 20-1-1-6; IC 20-1-1.2-18.

### **TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND**

LSA Document #03-155

Under IC 4-22-2-23, the Board of Trustees of the Indiana State Teachers' Retirement Fund intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 550 IAC 2-2-7 regarding the definition of compensation. The amendment clarifies the treatment of vacation pay. Question or comments on the amendment may be directed by mail to the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204 or by electronic mail to tdauidson@trf.state.in.us. Statutory authority: IC 21-6.1-3-6.

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### **TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION**

LSA Document #03-170

Under IC 4-22-2-23, the Fire Prevention and Building Safety Commission intends to adopt a rule concerning the following:

**OVERVIEW:** To make numerous substantive and clarifying changes to the 2003 Indiana Building Code, 675 IAC 13-2.4. Public comments are invited and may be directed to the Department of Fire and Building Services, ATTENTION: Technical Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by e-mail at jweesner@sema.state.in.us. Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

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### **TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION**

LSA Document #03-171

Under IC 4-22-2-23, the Fire Prevention and Building Safety Commission intends to adopt a rule concerning the following:

**OVERVIEW:** To make numerous substantive and clarifying changes to the 2003 Indiana Mechanical Code, 675 IAC 18-1.4. Public comments are invited and may be directed to the Department of Fire and Building Services, ATTENTION: Technical Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by e-mail at jweesner@sema.state.in.us. Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

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## Notice of Intent to Adopt a Rule

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### TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #03-172

Under IC 4-22-2-23, the Fire Prevention and Building Safety Commission intends to adopt a rule concerning the following:

**OVERVIEW:** To make numerous substantive and clarifying changes to the 2003 Indiana Fire Code, 675 IAC 22-2.3. Public comments are invited and may be directed to the Department of Fire and Building Services, ATTENTION: Technical Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by e-mail at [jweesner@sema.state.in.us](mailto:jweesner@sema.state.in.us). Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

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### TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

LSA Document #03-173

Under IC 4-22-2-23, the Fire Prevention and Building Safety Commission intends to adopt a rule concerning the following:

**OVERVIEW:** To make numerous substantive and clarifying changes to the 2003 Indiana Fuel Gas Code, 675 IAC 25-1. Public comments are invited and may be directed to the Department of Fire and Building Services, ATTENTION: Technical Services, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204 or by e-mail at [jweesner@sema.state.in.us](mailto:jweesner@sema.state.in.us). Statutory authority: IC 22-13-2-2; IC 22-13-2-13.

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### TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #03-160

Under IC 4-22-2-23, the Department of Insurance intends to adopt a rule concerning the following:

**OVERVIEW:** The Department intends to amend 760 IAC 1-50 to conform with HEA 1674 (P.L.132-2001). Written comments may be submitted to the Indiana Department of Insurance, ATTENTION: Amy Strati, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204 or e-mail to [astrati@doi.state.in.us](mailto:astrati@doi.state.in.us). Statutory authority: IC 27-1-15.7-4(e); IC 27-1-15.7-7.

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### TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #03-146

Under IC 4-22-2-23, the State Board of Dentistry intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 828 IAC 0.5-2-3 concerning fees. Adds 828 IAC 1-3.5 concerning requirements for instructor's licenses. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Indiana State Board of Dentistry, ATTENTION: Director, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by e-mail to [bmcnut@hpb.state.in.us](mailto:bmcnut@hpb.state.in.us). Statutory authority: IC 25-14-1-13; IC 25-14-1-27.5.

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### TITLE 828 STATE BOARD OF DENTISTRY

LSA Document #03-162

Under IC 4-22-2-23, the State Board of Dentistry intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 828 IAC 1-5 concerning the continuing education requirements for dentists and dental hygienists. Adds 828 IAC 1-5-6 concerning ethics, professional responsibility, and jurisprudence continuing education requirements for dentists and dental hygienists. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Indiana State Board of Dentistry, ATTENTION: Assistant Director, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by e-mail to [smazo@hpb.state.in.us](mailto:smazo@hpb.state.in.us). Statutory authority: IC 25-13-1-5; IC 25-3-2-10; IC 25-14-1-13; IC 25-14-3-12.

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### TITLE 856 INDIANA BOARD OF PHARMACY

LSA Document #03-154

Under IC 4-22-2-23, the Indiana Board of Pharmacy intends to adopt a rule concerning the following:

**OVERVIEW:** Amends 856 IAC 1-31 concerning patient counseling. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Indiana Board of Pharmacy, ATTENTION: Director, 402 West Washington Street, Room W066, Indianapolis, Indiana 46204 or by electronic mail to [jbolin@hpb.state.in.us](mailto:jbolin@hpb.state.in.us). Statutory authority: IC 15-5-1.1-11.

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## Proposed Rules

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

#### Proposed Rule LSA Document #03-101

#### DIGEST

Adds 10 IAC 1.5-6 to establish filing dates for reports required by holders of property presumed to be abandoned. Effective 30 days after filing with the secretary of state

#### 10 IAC 1.5-6

SECTION 1. 10 IAC 1.5-6 IS ADDED TO READ AS FOLLOWS:

##### **Rule 6. Filing Dates for Reports Required to be Filed**

#### **10 IAC 1.5-6-1 Filing dates for reports required to be filed**

**Authority:** IC 32-34-1-52; IC 32-34-1-26  
**Affected:** IC 32-34-1

**Sec. 1. Unless otherwise provided by statute, the reports required by IC 32-34-1-26(a) to be filed by holders of property presumed to be abandoned must be filed as follows:**

- (1) The report of a life insurance company must be filed before May 1 of each year for the calendar year preceding the year in which the report is filed.**
- (2) All other holders must file the report before November 1 of each year to cover the year preceding July 1 of the year in which the report is filed.**

*(Office of Attorney General for the State; 10 IAC 1.5-6-1)*

#### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on July 22, 2003 at 11:00 a.m., at the Office of the Attorney General's Conference Room, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana the Office of Attorney General for the State will hold a public hearing on a proposed new rule to establish filing dates for reports required by holders of property presumed to be abandoned. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Judy Hudson, Director  
Unclaimed Property Division  
Office of Attorney General

### TITLE 312 NATURAL RESOURCES COMMISSION

#### Proposed Rule LSA Document #03-35

#### DIGEST

Amends 312 IAC 9-10-3 that governs aquatic vegetation control on waters of the state. Currently, the rule section applies only to chemical controls, but the amendments would implement P.L.19-2002 by extending coverage to controls based on mechanical, physical, and biological methods. Clarifies and supplements the factors considered by the department of natural resources in evaluating a license application to control aquatic plants. Clarifies the need to obtain advance approval from the department of environmental management for waterways used as a surface drinking water source before obtaining a license from the department of natural resources under this section. Requires a report be provided by a license holder to the department of natural resources within seven days after the completion of a control effort. Makes numerous other technical and substantive amendments. Effective January 1, 2004.

#### 312 IAC 9-10-3

SECTION 1. 312 IAC 9-10-3 IS AMENDED TO READ AS FOLLOWS:

#### **312 IAC 9-10-3 Aquatic vegetation control permits**

**Authority:** IC 14-22-2-6; IC 14-22-9-10  
**Affected:** IC 14-22-9-10

**Sec. 3. (a) Except as provided under IC 14-22-9-10(a), a person shall ~~must~~ obtain a permit under this section before ~~applying a substance to seeking to control aquatic vegetation through chemical, mechanical, physical, or biological means~~ in waters of ~~this the~~ state. ~~to seek aquatic vegetation control.~~**

**(b) ~~An application for an aquatic vegetation control Before obtaining a permit shall be made under this section, a person must complete an application~~ on a departmental form ~~and must include that includes~~ the following information:**

- (1) The common name of the ~~target~~ plants ~~and relative abundance of other dominant plants in each area~~ to be controlled.**
- (2) The acreage to be ~~treated~~ controlled, with affected areas illustrated on a legible map.**
- (3) The maximum depth of the water, ~~the maximum perpendicular distance from shoreline, and the linear distance along the shoreline~~ where plants are to be treated.**
- (4) The name and amount of the chemical to be used ~~in each treatment, if a chemical control is used.~~**
- (5) ~~The duration and timing of control efforts, if controls will be repeated under a single permit.~~**
- (6) ~~The location of any water supply intake that may be adversely affected by the aquatic vegetation control activities.~~**

- (7) The species, stocking rate, and release location, if a biological control is used.
- (8) The type of equipment and location of disposal area, if a mechanical control is used.
- (9) The name and contact information for the person who will conduct the control effort.

(c) An applicant for a permit under this section must demonstrate each of the following to the satisfaction of the department:

- (1) The proposed treatment is likely to provide effective relief.
- (2) The proposed treatment will not result in any of the following:
  - (A) A hazard to humans, animals, or other nontarget organisms.
  - (B) A significant adverse impact to the treated waterway.
  - (C) A significant adverse impact to endangered or threatened species.
  - (D) A significant adverse impact to beneficial organisms within the treatment area or in adjacent areas, either directly or through habitat destruction.
  - (E) An unreasonable restriction on an existing use of the waterway.
- (3) The proposed treatment will not occur within one hundred fifty (150) feet perpendicular to the shoreline of a public freshwater lake, along an area classified as a significant wetland under 312 IAC 11-2-24, except where the applicant demonstrates the treatment can be conducted without reducing the ecological value of the area.
- (4) The following apply if a chemical is to be used for aquatic vegetation control:
  - (A) The chemical is labeled and registered for this purpose by the United States Environmental Protection Agency.
  - (B) Prior written approval is received from the department of environmental management if the waterway to be treated is a public drinking water supply.
- (5) Any other information reasonably required by the department to effectively review the application.

(c) (d) A permit issued under this section is limited to the terms of the application and to conditions imposed on the permit by the department.

(d) (e) Five (5) days before the application of a substance permitted under this section, the permit holder must post clearly, visible signs at the treatment area indicating the substance that will be applied and what precautions should be taken.

(e) A permit issued under this section is void if the waters to be treated are supplied to the public by a private company or governmental agency.

(f) A permit holder must submit a report on a departmen-

tal form not later than the seven (7) days following the control effort, providing the date, location, acreage, and method used in each area where controls were implemented. (Natural Resources Commission; 312 IAC 9-10-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2728)

SECTION 2. SECTION 1 of this document takes effect January 1, 2004.

*Notice of Public Hearing*

*Under IC 4-22-2-24, notice is hereby given that on July 24, 2003 at 11:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W293, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on a proposed amendment concerning aquatic vegetation control on waters of the state. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Michael Kiley  
Chairman  
Natural Resources Commission

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**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**  
LSA Document #03-91

**DIGEST**

Amends 312 IAC 18-5-4 that governs phytosanitary document fees and related fees by increasing those fees from \$30 to \$50 and adds state phytosanitary certificates to those for which the fees are required but with exemptions. Effective 30 days after filing with the secretary of state.

**312 IAC 18-5-4**

SECTION 1. 312 IAC 18-5-4, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**312 IAC 18-5-4 Phytosanitary document fees and related fees**

**Authority:** IC 14-10-2-4; IC 14-24-3  
**Affected:** IC 14-24

Sec. 4. (a) The fee is ~~thirty~~ **fifty** dollars (~~\$30~~) (**\$50**) for the issuance of any of the following:

- (1) A federal phytosanitary certificate.
- (2) A federal phytosanitary certificate for reexport.
- (3) A federal processed product certificate.
- (4) **Except as provided in subsection (b), a state phytosanitary certificate.**

## Proposed Rules

(b) An exemption from the fee for a state phytosanitary certificate is provided for either of the following activities:

(1) An Indiana resident who is lawfully moving domesticated plants for personal, noncommercial purposes into a state requiring certification.

(2) A person who has been inspected and certified as a nursery under IC 14-24 or provided a voluntary certification under this rule.

(Natural Resources Commission; 312 IAC 18-5-4; filed Nov 22, 1996, 3:00 p.m.; 20 IR 954; readopted filed Oct 2, 2002, 9:10 a.m.; 26 IR 546)

### Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 24, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments concerning phytosanitary document fees and related fees by increasing those fees from \$30 to \$50 and adds state phytosanitary certificates to those for which the fees are required but with exemptions. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley  
Chairman  
Natural Resources Commission

## TITLE 326 AIR POLLUTION CONTROL BOARD

### Proposed Rule

LSA Document #03-69

### DIGEST

Amends 326 IAC 1-3-4 to add the federal eight hour ozone standards to 326 IAC. Effective 30 days after filing with the secretary of state.

### HISTORY

IC Notice 13-14-9-8 and Notice of First Hearing: April 1, 2003 Indiana Register (26 IR 2485).

Date of First Hearing: June 4, 2003.

### PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on April 1, 2003, at 26 IR 2485, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

### SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On June 4, 2003, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 1-3-4. No comments were made at the first hearing.

### 326 IAC 1-3-4

SECTION 1. 326 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

### 326 IAC 1-3-4 Ambient air quality standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) The following ambient air quality standards, corrected to a reference temperature of 25° C: **twenty-five (25) degrees Celsius** and to a reference pressure of seven hundred sixty (760) millimeters of mercury (one thousand thirteen and two-tenths (1,013.2) millibars), as micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). ~~shall apply:~~

### (b) Ambient air quality standards are as follows:

(1) Sulfur oxides as sulfur dioxide ( $\text{SO}_2$ ) **requirements are as follows:**

(A) For primary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Eighty (80)  $\mu\text{g}/\text{m}^3$  (~~three-hundredth~~ **(three-hundredths (0.03) parts per million (ppm))** annual arithmetic mean.

(ii) Three hundred sixty-five (365)  $\mu\text{g}/\text{m}^3$  (~~fourteen-hundredth~~ **(fourteen-hundredths (0.14) ppm)** maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(B) For secondary standards, the following value shall represent the maximum permissible ambient air quality levels: one thousand three hundred (1,300)  $\mu\text{g}/\text{m}^3$  (~~five-tenth~~ **(five-tenths (0.5) ppm)** maximum three (3) hour concentration not to be exceeded more than once per year.

(C) ~~Sulfur dioxide~~  $\text{SO}_2$  values may be converted to ~~parts per million~~ ppm using the conversion factor two thousand six hundred twenty ( $2,620 \mu\text{g}/\text{m}^3 = \text{one (1) ppm}$ ).

(2) Total suspended ~~Particulate~~ **particulates (TSP) requirements are as follows:**

(A) For primary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Seventy-five (75)  $\mu\text{g}/\text{m}^3$  annual geometric mean.

(ii) Two hundred sixty (260)  $\mu\text{g}/\text{m}^3$  maximum twenty-four (24) hour average concentration not to be exceeded more than one (1) day per year.

(B) For secondary standards, the following value shall represent maximum permissible ambient air quality levels: one hundred fifty (150)  $\mu\text{g}/\text{m}^3$  maximum twenty-four (24)

hour average concentration not to be exceeded more than one (1) day per year.

**(3) Carbon monoxide (CO) requirements are as follows:**

(A) For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

(i) Ten (10) milligrams per cubic meter (**mg/m<sup>3</sup>**) (ten thousand (10,000)  $\mu\text{g}/\text{m}^3$ ) (nine (9) ppm) maximum eight (8) hour average concentration not to be exceeded more than once per year.

(ii) Forty (40) milligrams per cubic meter **mg/m<sup>3</sup>** (forty thousand (40,000)  $\mu\text{g}/\text{m}^3$ ) (thirty-five (35) ppm) maximum one (1) hour average concentration not to be exceeded more than once per year.

(B) ~~Carbon monoxide CO~~ values may be converted to **parts per million** ppm using the conversion factor one thousand one hundred forty-five (1,145)  $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$ .

**(4) Ozone (O<sub>3</sub>) requirements shall be as follows:**

(A) For primary and secondary **the one (1) hour ozone standards, the following values shall represent the maximum permissible ambient air quality level: the expected number of days with maximum hourly ozone concentrations above two hundred thirty-five (235)  $\mu\text{g}/\text{m}^3$  (twelve-hundredths (0.12) ppm) shall not exceed one (1) per calendar year: level of the one (1) hour primary and secondary ambient air quality standards for ozone measured by a reference method based on 40 CFR 50, Appendix D\* and designated in accordance with 40 CFR 53\* is twelve-hundredths (0.12) ppm (two hundred thirty-five (235)  $\mu\text{g}/\text{m}^3$ ). The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above twelve-hundredths (0.12) ppm (two hundred thirty-five (235)  $\mu\text{g}/\text{m}^3$ ) is equal to or less than one (1) as determined by 40 CFR 50, Appendix H\*.**

(B) For the eight (8) hour ozone standards, the:

(i) level of the eight (8) hour primary and secondary ambient air quality standards for ozone, measured by a reference method based on 40 CFR 50, Appendix D\* and designated in accordance with 40 CFR 53\*, is eight-hundredths (0.08) ppm, daily maximum eight (8) hour average; and

(ii) eight (8) hour primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth highest daily maximum eight (8) hour average ozone concentration is less than or equal to eight-hundredths (0.08) ppm as determined in accordance with 40 CFR 50, Appendix I\*.

~~Ozone (C) O<sub>3</sub>~~ values may be converted to **parts per million** ppm using the conversion factor one thousand nine hundred sixty-five (1,965)  $\mu\text{g}/\text{m}^3 = \text{one (1) 1.0 ppm}$ .

**(5) Nitrogen dioxide (NO<sub>2</sub>) requirements shall be as follows:**

(A) For primary and secondary ~~standard, standards,~~ the following value shall represent the maximum permissible ambient air quality level: one hundred (100)  $\mu\text{g}/\text{m}^3$  ~~(five-hundredth (five-hundredths (0.05) ppm) annual arithmetic mean.~~

(B) ~~Nitrogen dioxide NO<sub>2</sub>~~ values may be converted to **parts per million** ppm using the conversion factor one thousand eight hundred eighty (1,880)  $\mu\text{g}/\text{m}^3 = \text{one (1) ppm}$ .

(6) Lead (Pb): ~~(A)~~ For primary and secondary ~~standard, standards,~~ the following value shall represent the maximum permissible ambient air quality level: one and five-tenth **five-tenths** (1.5) micrograms lead per cubic meter of air ( $\mu\text{g}$  of Pb/m<sup>3</sup>), averaged over a calendar quarter and measured as elemental lead.

(7) PM<sub>10</sub>: ~~(A)~~ For primary and secondary standards, the following values shall represent the maximum permissible ambient air quality levels:

~~(i)~~ (A) Fifty (50)  $\mu\text{g}/\text{m}^3$  annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K\*, is less than or equal to fifty (50)  $\mu\text{g}/\text{m}^3$ .

~~(ii)~~ (B) One hundred fifty (150)  $\mu\text{g}/\text{m}^3$  maximum twenty-four (24) hour average concentration. The standards are attained when the expected number of days per calendar year with a twenty-four (24) hour average concentration above one hundred fifty (150)  $\mu\text{g}/\text{m}^3$ , as determined in accordance with 40 CFR 50, Appendix K,\* is equal to or less than one (1).

~~\*This document is~~ **\*These documents are** incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 1-3-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2378; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3020; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3055*)

**Notice of Public Hearing**

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on September 3, 2003 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 1-3-4.*

*The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accu-*

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## Proposed Rules

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racy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayla Killough, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe

Assistant Commissioner

Office of Air Management

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### TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

#### Proposed Rule

LSA Document #03-18

#### DIGEST

Amends 405 IAC 1-10.5-3 to remove the annual inflationary adjustment to inpatient rates and adds requirements to the medical education rate calculation. Effective 30 days after filing with the secretary of state.

#### 405 IAC 1-10.5-3

SECTION 1. 405 IAC 1-10.5-3 IS AMENDED TO READ AS FOLLOWS:

#### 405 IAC 1-10.5-3 Prospective reimbursement methodology

Authority: IC 12-15-21-2; IC 12-15-21-3

Affected: IC 12-15-15-1

Sec. 3. (a) The purpose of this section is to establish a prospective, cost-based reimbursement methodology for services provided by inpatient hospital facilities that are covered by the state of Indiana Medicaid program. The methodology for reimbursement described in this section shall be a prospective system wherein a payment rate for each hospital stay will be

established according to a DRG reimbursement methodology or a level-of-care reimbursement methodology. Prospective payment shall constitute full reimbursement. There shall be no year-end cost settlement payments.

(b) Rebasing of the DRG and level-of-care methodologies will apply information from the most recent available cost report that has been filed and audited by the office or its contractor.

(c) Payment for inpatient stays reimbursed according to the DRG methodology shall be equal to the sum of the DRG rate, the capital rate, the medical education rate, and, if applicable, the outlier payment amount.

(d) Payment for inpatient stays reimbursed as level-of-care cases shall be equal to the sum of the per diem rate for each Medicaid day, the capital rate, the medical education rate, and, if applicable, the outlier payment amount (burn cases only).

(e) Inpatient stays reimbursed according to the DRG methodology shall be assigned to a DRG using the all patient DRG grouper.

(f) The DRG rate is equal to the product of the relative weight and the base amount.

(g) Initial relative weights were calculated using Indiana Medicaid claims data for inpatient stays with dates of admission within state fiscal years 1990, 1991, and 1992 and cost report data from facilities' fiscal year 1990 cost reports. Relative weights will be reviewed by the office and adjusted no more often than annually by using the most recent reliable claims data and cost report data to reflect changes in treatment patterns, technology, and other factors that may change the relative use of hospital resources. Interim adjustments to the relative weights will not be made except in response to legislative mandates affecting Medicaid participating hospitals. Each legislative mandate will be evaluated individually to determine whether an adjustment to the relative weights will be made. DRG average length of stay values and outlier thresholds will be revised when relative weights are adjusted.

(h) Initial base amounts were calculated using cost report data from facilities' fiscal year 1990 as-settled cost reports. Cost report data were inflated to the midpoint of the state fiscal year 1995 using the DRI/McGraw-Hill Hospital Market Basket Index available at the end of the 1993 calendar year. Base amounts will be reviewed annually by the office and adjusted no more often than every second year by using the most recent reliable claims data and cost report data to reflect changes in treatment patterns, technology, and other factors that may change the cost of efficiently providing hospital services. ~~In the absence of rebasing, base amounts will be inflated annually according to the Hospital Market Basket Index published in the second quarter of the current year.~~

(i) The office may establish a separate base amount for children's hospitals to the extent necessary to reflect significant differences in cost. Each children's hospital will be evaluated individually for eligibility for the separate base amount. Children's hospitals with a case mix adjusted cost per discharge greater than one (1) standard deviation above the mean cost per discharge for DRG services will be eligible to receive the separate base amount established under this subsection. The separate base amount is equal to one hundred and twenty percent (120%) of the statewide base amount for DRG services.

(j) Initial level-of-care payment rates were calculated using Indiana Medicaid claims data for inpatient stays with dates of admission within state fiscal years 1990, 1991, and 1992 and cost report data from facilities' fiscal year 1990 cost reports. Cost report data was inflated to the midpoint of the state fiscal year 1995 using the DRI/McGraw-Hill Hospital Market Basket Index. Level-of-care rates will be reviewed annually by the office and adjusted no more often than every second year by using the most recent reliable claims data and cost report data to reflect changes in treatment patterns, technology, and other factors that may change the cost of efficiently providing hospital services. ~~In the absence of rebasing, level-of-care rates will be inflated annually according to the Hospital Market Basket Index published in the second quarter of the current year.~~ The office shall not set separate level-of-care rates for different categories of facilities, except as specifically noted in this section.

(k) Level-of-care cases are categorized as DRG numbers 424–428, 429 (excluding diagnosis code 317.XX–319.XX), 430–432, 456–459, 462, and 472, as defined and grouped using the all patient DRG grouper, version 14.1. These DRG numbers represent burn, psychiatric, and rehabilitative care.

(l) In addition to the burn level-of-care rate, the office may establish an enhanced burn level-of-care rate for hospitals with specialized burn facilities, equipment, and resources for treating severe burn cases. In order to be eligible for the enhanced burn rate, facilities ~~must be designated as offering~~ **offer** a burn intensive care unit.

(m) The office may establish separate level-of-care rates for children's hospitals to the extent necessary to reflect significant differences in cost. Each children's hospital will be evaluated individually for eligibility for the separate level-of-care rate. Children's hospitals with a cost per day greater than one (1) standard deviation above the mean cost per day for level-of-care services will be eligible to receive the separate base amount. Determinations will be made for each level-of-care category. The separate base amount is equal to one hundred twenty percent (120%) of the statewide level-of-care rate.

(n) The office may establish separate level-of-care rates, policies, billing instructions, and frequency for long term care

hospitals to the extent necessary to reflect differences in treatment patterns for patients in such facilities. Hospitals must meet the definition of long term hospital set forth in this rule to be eligible for the separate level-of-care rate.

(o) Capital payment rates shall be prospectively determined and shall constitute full reimbursement for capital costs. The initial flat, statewide per diem capital rate was calculated using cost report data from facilities' fiscal year 1990 cost reports, inflated to the midpoint of state fiscal year 1995 using the DRI/McGraw-Hill Hospital Market Basket Index and adjusted to reflect a minimum occupancy level for non-nursery beds of eighty percent (80%). Capital per diem rates will be reviewed annually by the office and adjusted no more often than every second year by using the most recent reliable claims data and cost report data to reflect changes in treatment patterns, technology, and other factors that may change the capital costs associated with efficiently providing hospital services. ~~In the absence of rebasing, the per diem capital rate will be inflated annually using the Hospital Market Basket Index published in the second quarter of the current year.~~ **Capital payment rates shall be adjusted to reflect a minimum occupancy level for non-nursery beds of eighty percent (80%).**

(p) The capital payment amount for Medicaid stays reimbursed under the DRG methodology shall be equal to the product of the per diem capital rate and the average length of stay for all cases within the particular DRG. Medicaid stays reimbursed under the level-of-care methodology will be paid the per diem capital rate for each covered day of care. The office shall not set separate capital per diem rates for different categories of facilities, except as specifically noted in this rule.

(q) Medical education rates shall be prospective, hospital-specific per diem amounts. The medical education payment amount for stays reimbursed under the DRG methodology shall be equal to the product of the medical education per diem rate and the average length of stay for the DRG. Payment amounts for medical education for stays reimbursed under the level-of-care methodology shall be equal to the medical education per diem rate for each covered day of care.

(r) Facility-specific, per diem medical education rates shall be based on **medical education** costs ~~per resident~~ per day multiplied by the number of residents reported by the facility. Initial costs per resident per day were determined according to each facility's fiscal year 1990 cost report. In subsequent years, but no more often than every second year, the office will use the most recent cost report data **that has been filed and audited by the office or its contractor** to determine a **medical education** cost ~~per resident~~ per day that more accurately reflects the cost of efficiently providing hospital services. **For hospitals with approved graduate medical education programs**, the number of residents will be determined according to the most recent available cost report that has been filed and audited by

## Proposed Rules

the office or its contractor. ~~In the absence of rebasing, the medical education per diem will be inflated annually using the Hospital Market Basket Index published in the second quarter of the current year. Indirect medical education costs shall not be reimbursed.~~

(s) Medical education payments will only be available to hospitals that continue to operate medical education programs. Hospitals must notify the office within thirty (30) days following discontinuance of their medical education program.

(t) For hospitals with new medical education programs, the **corresponding** medical education per diem will **not** be effective ~~no earlier than two (2) months~~ prior to notification to the office that the program has been implemented. The medical education per diem shall be based on the most recent reliable claims data and cost report data.

(u) Cost outlier cases are determined according to a threshold established by the office. For purposes of establishing outlier payment amounts, prospective determination of costs per inpatient stay shall be calculated by multiplying a cost-to-charge ratio by submitted and approved charges. Outlier payment amounts shall be equal to a percentage of the difference between the prospective cost per stay and the outlier threshold amount. Cost outlier payments are not available for cases reimbursed using the level-of-care methodology, except for burn cases that exceed the established threshold.

(v) Readmissions will be treated as separate stays for payment purposes, but will be subject to medical review. If it is determined that a discharge is premature, payment made as a result of the discharge or readmission may be subject to recoupment.

(w) Special payment policies shall apply to transfer cases. The transferee, or receiving, hospital is paid according to the DRG methodology or level-of-care methodology. The transferring hospital is paid the sum of the following:

- (1) A DRG daily rate for each Medicaid day of the recipient's stay, not to exceed the appropriate full DRG payment, or the level-of-care per diem payment rate for each Medicaid day of care provided.
- (2) The capital per diem rate.
- (3) The medical education per diem rate. Certain DRGs are established to specifically include only transfer cases; for these DRGs, reimbursement shall be equal to the DRG rate.

(x) Special payment policies shall apply to less than one-day stays that are paid according to a DRG rate. For less than one-day stays, hospitals will be paid a DRG daily rate, the capital per diem rate for one (1) day of stay, and the medical education per diem rate for one (1) day of stay, if applicable. (*Office of the Secretary of Family and Social Services; 405 IAC 1-10.5-3; filed Oct 5, 1994, 11:10 a.m.: 18 IR 245; filed Nov 16, 1995, 3:00 p.m.: 19 IR 664; filed Dec 19, 1995, 3:00 p.m.: 19 IR 1083; filed Dec 27, 1996, 12:00 p.m.: 20 IR 1515; errata filed*

*Mar 21, 1997, 9:45 a.m.: 20 IR 2116; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 31, 2001, 9:53 a.m.: 25 IR 57; errata filed Jan 25, 2002, 2:27 p.m.: 25 IR 1906)*

### Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on July 29, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to the Medicaid hospital inpatient reimbursement regulation.*

*In accordance with public notice requirements of 42 CFR 447.205 and Section 1902(a)(13)(A) of the Social Security Act, the Indiana family and social services administration, office of Medicaid policy and planning publishes this notice of proposed changes to the reimbursement methodology for Medicaid enrolled hospitals.*

*The office of Medicaid policy and planning (OMPP) proposes to modify the inpatient hospital reimbursement formula as follows:*

- Remove annual inflationary adjustment to rate components. This serves as a cost containment measure to assist in covering the increasing costs of the Indiana Medicaid program.*
- Specifies that the medical education rate will be calculated based on medical education costs per day, based on filed and audited cost reports. Specifies that indirect medical education costs will not be reimbursed. These changes clarify current operant policies.*
- Makes other clarifying changes, including removing outdated references to initial rate setting methodologies.*

*It is estimated that the fiscal impact of these changes will be a savings in expenditures of state and federal dollars of approximately \$12.7 million in SFY 2004 and \$13.2 million in SFY 2005 due to inflationary adjustments that will not be made during those years. There are no new proposed rates available for review because the elimination of the inflationary adjustment will not cause rates to change.*

*Copies of proposed amendments to the rule (405 IAC 1-10.5-3) are now available (along with copies of this public notice) and may be inspected by contacting the Director of the local County Division of Family and Children office, except in Marion County, where public inspection may be made at 402 West Washington Street, Room W382, Indianapolis, Indiana. Written comments may be directed to IFSSA, Attention: Zachary Jackson, 402 West Washington Street, Room W382, P.O. Box 7083, Indianapolis, Indiana 46207-7083. Correspondence should be identified in the following manner: "COMMENTRE: LSA DOCUMENT #03-18 PROPOSED CHANGES TO INPATIENT HOSPITAL REIMBURSEMENT SYSTEM". Written comments received will be made available for public display at the address herein of the office of Medicaid policy and planning.*

*Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

John Hamilton  
Secretary  
Office of the Secretary of Family and Social Services

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**TITLE 405 OFFICE OF THE SECRETARY OF  
FAMILY AND SOCIAL SERVICES**

**Proposed Rule**  
LSA Document #03-66

DIGEST

Amends 405 IAC 5-3-13 to require prior authorization for Medicaid reimbursement of assertive community treatment intensive case management services. Amends 405 IAC 5-21-1, 405 IAC 5-21-7, and 405 IAC 5-21-8 to provide for assertive community treatment intensive case management services for certain Medicaid recipients with serious mental illness.

**405 IAC 5-3-13**  
**405 IAC 5-21-1**

**405 IAC 5-21-7**  
**405 IAC 5-21-8**

SECTION 1. 405 IAC 5-3-13 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-3-13 Services requiring prior authorization**

**Authority:** IC 12-8-6-3; IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3

**Affected:** IC 12-13-7-3; IC 12-15

Sec. 13. (a) Medicaid reimbursement is available for the following services with prior authorization:

- (1) Reduction mammoplasties.
- (2) Rhinoplasty or bridge repair of the nose when related to a significant obstructive breathing problem.
- (3) Intersex surgery.
- (4) Blepharoplasties for a significant obstructive vision problem.
- (5) Sliding mandibular osteotomies for prognathism or micrognathism.
- (6) Reconstructive or plastic surgery.
- (7) Bone marrow or stem cell transplants.
- (8) All organ transplants covered by the Medicaid program.
- (9) Plasmapheresis.
- (10) Strabismus surgery for patients over ten (10) years of age.
- (11) Home health services.
- (12) Maxillofacial surgeries related to diseases and conditions of the jaws and contiguous structures.
- (13) Temporomandibular joint surgery.

- (14) Submucous resection of nasal septum and septoplasty when associated with significant obstruction.
- (15) Hysterectomy.
- (16) Tonsillectomy.
- (17) Tonsillectomy and adenoidectomy.
- (18) Cataract extraction.
- (19) Surgical procedures involving the foot.
- (20) Weight reduction surgery, including gastroplasty and related gastrointestinal surgery.
- (21) Any procedure ordinarily rendered on an outpatient basis, when rendered on an inpatient basis.
- (22) All dental admissions.
- (23) Stress electrocardiograms except for medical conditions.
- (24) Brand medically necessary drugs.
- (25) Other drugs as specified in accordance with 405 IAC 5-24-8.5.
- (26) Psychiatric inpatient admissions, including admissions for substance abuse.
- (27) Rehabilitation inpatient admissions.
- (28) Assertive community treatment intensive case management.**
- ~~(28)~~ **(29)** As otherwise specified in this article.

If any of the surgeries listed in this section are performed during a hospital stay for another condition, prior authorization is required for the surgical procedure.

(b) Requests for prior authorization for the surgical procedures in this section will be reviewed for medical necessity on a case-by-case basis in accordance with this rule. (*Office of the Secretary of Family and Social Services; 405 IAC 5-3-13; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3306; filed Sep 1, 2000, 2:16 p.m.: 24 IR 14; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jan 7, 2002, 10:11 a.m.: 25 IR 1613*)

SECTION 2. 405 IAC 5-21-1 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 5-21-1 Definitions**

**Authority:** IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3  
**Affected:** IC 12-13-7-3; IC 12-15; IC 12-29; IC 25-23-1-1

Sec. 1. (a) As used in this rule, "community mental health rehabilitation services" means the following:

- (1) Outpatient mental health services.
- (2) Partial hospitalization services.
- (3) Case management services for persons who are seriously mentally ill or seriously emotionally disturbed.
- (4) Assertive community treatment (ACT) intensive case management services are services provided by a multidisciplinary team that has the responsibility for the direct provision of community based psychiatric treatment, assertive outreach, rehabilitation, and support services to an adult Medicaid population with serious mental illness that also have cooccurring problems or multiple hospitalizations. The team must be regularly certified as defined in 440 IAC 5.2-2.**

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(b) As used in this rule, “community mental health services” refers to community mental health rehabilitation services.

(c) As used in this rule, “consumer” means an individual who is receiving assessment or mental health services from an ACT team and is a recipient of Medicaid.

(d) As used in this rule, “qualified mental health professional” means any of the following persons:

- (1) A psychiatrist.
- (2) A physician.
- (3) A licensed psychologist or a psychologist endorsed as a health service provider in psychology (HSPP).
- (4) An individual who has had at least two (2) years of clinical experience treating persons with mental illness, under the supervision of any of the persons listed in subdivision (1), (2), or (3), such experience occurring after the completion of a master’s degree or doctoral degree, or both, in any of the following disciplines:
  - (A) In psychiatric or mental health nursing from an accredited university plus a license as a registered nurse in Indiana.
  - (B) In social work from a university accredited by the Council on Social Work Education.
  - (C) In psychology from an accredited university.
  - (D) In mental health counseling from an accredited university.
  - (E) In pastoral counseling from an accredited university.
  - (F) In rehabilitation counseling from an accredited university.
  - (G) In marital and family therapy from an accredited university.
- (5) A licensed independent practice school psychologist, under the supervision of any of the persons listed in subdivision (1), (2), or (3).
- (6) An individual who has documented education, training, or experience, comparable or equivalent to those listed in this subsection, as approved by the supervising physician or HSPP, under the supervision of any of the persons listed in subdivision (1), (2), or (3).
- (7) An advanced practice nurse under IC 25-23-1-1(b)(3) who is credentialed in psychiatric or mental health nursing by the American Nurses Credentialing Center, under the supervision of any of the persons listed in subdivision (1), (2), or (3).

(e) As used in this rule, “regular certification” or “certification” is an ACT team that is certified by division of mental health and addiction (DMHA) and does not include provisional certification as defined in 440 IAC 5.2-2-8 or conditional certification as defined in 440 IAC 5.2-2-10.

(f) As used in this rule, “situational trauma” means an extremely upsetting emotional experience that aggravates or contributes to a mental illness. (*Office of the Secretary of Family and Social Services; 405 IAC 5-21-1; filed Jul 25, 1997,*

*4:00 p.m.: 20 IR 3336; filed Sep 27, 1999, 8:55 a.m.: 23 IR 316; filed Jun 9, 2000, 9:55 a.m.: 23 IR 2708; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

SECTION 3. 405 IAC 5-21-7 IS AMENDED TO READ AS FOLLOWS:

### 405 IAC 5-21-7 Prior authorization

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3  
Affected: IC 12-13-7-3; IC 12-15

Sec. 7. Community mental health rehabilitation services, as defined in section ~~†(b)~~ (1)(a) of this rule, are not subject to prior authorization, **except subdivision (4) assertive community treatment intensive case management services.** (*Office of the Secretary of Family and Social Services; 405 IAC 5-21-7; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3338; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

SECTION 4. 405 IAC 5-21-8 IS ADDED TO READ AS FOLLOWS:

### 405 IAC 5-21-8 Assertive community treatment intensive case management

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2; IC 12-15-21-3  
Affected: IC 12-13-7-3; IC 12-15

Sec. 8. (a) **The services reimbursable as assertive community treatment (ACT) intensive case management services are goal oriented and intended to maintain an individual outside of the hospital. Services may be provided only to Medicaid recipients with serious mental illness who also have cooccurring problems or multiple hospitalizations.**

(b) **Medicaid recipients receiving ACT intensive case management services as consumers must meet the following criteria:**

- (1) **The ACT admission and discharge criteria in accordance with 440 IAC 5.2-2-4.**
- (2) **Criteria established in Medicaid provider bulletins which may be updated by the office as needed.**
- (3) **Recipient’s level of functioning must be low or moderate as per the most recently released division of mental health and addiction (DMHA) mental illness risk-adjusted groups defined in the risk-level flow chart for mental illness developed by DMHA as contained in provider bulletins and updates.**

(c) **Provider qualifications for ACT intensive case management services shall be as follows:**

- (1) **ACT teams must be certified in accordance with 440 IAC 5.2-2. ACT teams on provisional or conditional certification status do not meet Medicaid requirements for reimbursement.**
- (2) **Each regularly certified ACT team must be composed of the staff requirements in accordance with 440 IAC 5.2-2-3(a).**

(3) Each regularly certified team shall meet regular operational standards in accordance with 440 IAC 5.2-2-3(b) and as follows:

- (A) Support and rehabilitation services as defined in 440 IAC 5.2-2-5, including the majority if not all behavioral and mental health direct clinical and rehabilitative services are also provided by this same team.
- (B) The team shall monitor hospitalization, housing, and employment outcomes for all consumers in accordance with 440 IAC 5.2-2-6.

(d) Prior authorization is required for assertive community treatment intensive case management services. Requests for prior authorization must contain the information specified in 405 IAC 5-3 and the following:

- (1) Medicaid Provider Identification Number of the certified assertive community treatment team's community mental health center.
- (2) Patient's Hoosier Assurance Plan Instrument-Adult level of functioning factor scores at the patient's most recent assessment, and the date of that assessment.
- (3) Clinical summary, including the following:
  - (A) Documentation of any institutionalizations and hospital visits related to the patient's condition in the last two (2) years, and any other documentation supporting the patient's severe limitations with activities of daily living.
  - (B) A current plan of treatment and progress notes documenting the necessity, effectiveness, and goals of treatment.
  - (C) Documentation detailing how the patient has met the community mental health center's requirements for participation as defined in 440 IAC 5.2-2-4 in the community mental health center's assertive community treatment program.
- (4) Signature of ACT team's psychiatrist.  
*(Office of the Secretary of Family and Social Services; 405 IAC 5-21-8)*

**Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on July 24, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room 2CC, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on a proposed rule to add Assertive Community Treatment intensive case management services to the Medicaid program as a reimbursable service. Written comments may be directed to MS-27 Office of General Counsel, Attention: Maureen Bartolo, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE LSA Document #03-66: ACT SERVICES". Written comments received will be made available for public display at the above listed address of the Office of*

*General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

John Hamilton  
Secretary  
Office of the Secretary of Family and Social Services

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**TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH**

**Proposed Rule**  
LSA Document #02-317

**DIGEST**

Adds 410 IAC 7-23 to establish a schedule of civil penalties for violations of the retail and wholesale food establishment rules. Repeals 410 IAC 7-19. Effective 30 days after filing with the secretary of state.

**410 IAC 7-19**  
**410 IAC 7-23**

SECTION 1. 410 IAC 7-23 IS ADDED TO READ AS FOLLOWS:

**Rule 23. Retail and Wholesale Food Establishment; Schedule of Civil Penalties for Violations**

**410 IAC 7-23-1 Schedule of civil penalties**  
Authority: IC 16-19-3-4; IC 16-42-5-28  
Affected: IC 4-21.5-3-8; IC 16-42

**Sec. 1. (a) The Indiana state department of health may commence an action under IC 4-21.5-3-8 to levy civil penalties against a person who:**

- (1) fails to comply with IC 16-42-5, IC 16-42-1, IC 16-42-2, 410 IAC 7-20, or 410 IAC 7-21; or
- (2) interferes with or obstructs the Indiana state department of health or its designated agent in the performance of duties pursuant to IC 16-42-5, IC 16-42-1, IC 16-42-2, 410 IAC 7-20, or 410 IAC 7-21.

**(b) A civil penalty in an amount in the appropriate range specified in subsection (d), (e), or (f), or any combination thereof, may be sought for each day of each violation.**

**(c) In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the Indiana state department of health will consider, but is not limited to, the following:**

- (1) The potential for harm or imminent threat to public health.

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- (2) The extent of deviation from statutory or regulatory requirements.
- (3) The degree of willfulness or negligence.
- (4) History of noncompliance.

The absence of direct harm will not result in assessment of a lower penalty for a violation.

(d) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a food establishment, as defined in IC 16-42-5, then they shall be assessed in accordance with the following:

INDIANA CODE (IC) SECTION	PENALTY RANGE
IC 16-42-5-6; IC 16-42-5-11; IC 16-42-5-19; IC 16-42-5-21	\$0-\$1,000
IC 16-42-5-7; IC 16-42-5-12; IC 16-42-5-13; IC 16-42-5-14; IC 16-42-5-15; IC 16-42-5-17; IC 16-42-5-18; IC 16-42-5-20	\$0-\$500
IC 16-42-5-8; IC 16-42-5-9; IC 16-42-5-10; IC 16-42-4-16; IC 16-42-5-22	\$0-\$100

(e) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a retail food establishment, as defined in 410 IAC 7-20, then they shall be assessed in accordance with the following:

SECTIONS OF 410 IAC 7-20	PENALTY RANGE
98; 107; 117; 118; 124; 136; 161; 340; 382; 427	\$0-\$500
94; 97; 114; 119; 120; 121; 122; 123; 125; 126; 127; 128; 129; 130; 132; 135; 137; 138; 140; 141; 158(a); 162; 163; 164; 167; 171; 173; 175; 177; 180; 181; 182(d); 183; 184; 254; 257; 261; 276; 291; 292; 293; 297; 301; 302; 304; 307; 308; 310; 311; 315; 317; 318(a); 335; 337; 402; 407; 408; 409; 410; 411; 412; 413; 414; 415; 416; 417; 418; 420; 428; 429; 430; 431	\$0-\$250
95; 100; 105; 106, 109; 112; 113; 116; 131; 159; 160; 172; 174; 182(a); 182(b); 182(c); 195; 198; 219; 232; 264(a); 265; 275; 294; 329; 383; 406	\$0-\$100
96; 99; 108; 110, 111; 115; 133; 134; 139; 142; 143; 144; 146; 147; 148; 149; 150; 151; 152; 153; 154; 155; 156; 157; 158(b); 158(c); 165; 166; 168; 169; 170; 178; 179; 185; 186; 187; 188; 189; 190; 191; 192; 193; 194; 196; 197; 199; 200; 201; 202; 203; 204; 205; 206; 207; 208; 209; 210; 211; 212; 213; 214; 215; 216; 217; 218; 220; 221; 222; 223; 224; 225; 226; 227; 228; 229; 230; 233; 234; 235; 236; 237; 238; 239; 240; 241; 242; 243; 244; 245; 247; 248; 249; 250; 251; 252; 253; 255; 256; 258; 259; 260; 262; 263; 264(b); 264(c); 266;	\$0-\$50

267; 268; 269; 270; 271; 272; 273; 274; 277; 278; 279; 280; 281; 282; 283; 284; 285; 286; 287; 288; 289; 290; 295; 296; 298; 299; 300; 303; 305; 306; 309; 312; 313; 314; 316; 318(b); 319; 320; 321; 322; 323; 324; 325; 326; 327; 328; 330; 332; 333; 336; 338; 339; 341; 342; 343; 344; 345; 346; 347; 348; 349; 350; 351; 352; 353; 354; 355; 356; 357; 358; 359; 360; 361; 362; 363; 364; 365; 366; 367; 368; 369; 370; 371; 372; 373; 374; 375; 376; 377; 378; 379; 380; 381; 384; 385; 386; 387; 388; 389; 390; 391; 392; 393; 394; 395; 396; 397; 398; 399; 400; 401; 403; 404; 405; 419; 421; 422; 423; 425

(f) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a wholesale food establishment, as defined in 410 IAC 7-21, then they shall be assessed in accordance with the following:

SECTIONS OF 410 IAC 7-21	PENALTY RANGE
35; 36; 39(b)(8); 40; 41; 42(b); 45(c)(1); 45(c)(2); 45(c)(3); 45(n); 45(p); 45(q); 45(r); 46; 47(9)(B); 48; 49(d); 49(e); 50(d)	\$0-\$1,000
36(8); 37; 38; 39; 42; 44(l); 45; 45(d); 47; 50(c); 50(f); 51(a); 51(c); 51(d)	\$0-\$500
36(6); 36(7); 42(c); 43(b); 43(c); 43(d); 44(c); 44(e); 44(h); 47(1)(A); 47(1)(B); 47(8); 49; 50(b); 51(b)	\$0-\$250
36(9); 43; 44; 45(t); 47(10); 47(11); 47(12); 47(13); 47(14); 47(15)	\$0-\$100

(g) After reinspection and determining the appropriate penalty based on the schedule in subsection (d), (e), or (f), or any combination thereof, the Indiana state department of health, or its authorized representative, may adjust the penalty to reflect a good faith effort to comply as follows:

- (1) Each individual penalty will be multiplied by the number of days the particular violation has been documented by the Indiana state department of health, or its authorized representative.
- (2) Penalties for violations documented in two (2) consecutive inspections by the Indiana state department of health, or its authorized representative, shall be assessed on the basis that the violations have remained uncorrected over the period of time between the two (2) inspections.
- (3) If the person found in violation has requested reinspection and has produced substantive evidence that the violation or violations have been corrected, the penalties shall be assessed for the period between initial discovery of violation and the receipt of request for reinspection.
- (4) Penalties for all violations documented in an inspection or series of inspections at an establishment will be totaled and sought under one (1) cause of action.

(h) After filing an action pursuant to IC 4-21.5, and in an attempt to resolve violations of said Indiana Code and this rule without resort to a hearing, the Indiana state department of health may negotiate and enter into agreed orders. An agreed order may suspend all or part of the civil penalty calculated under the requirements and deadlines established in the agreed order. (Indiana State Department of Health; 410 IAC 7-23-1)

SECTION 2. 410 IAC 7-19 IS REPEALED.

**Notice of Public Hearing**

Under IC 4-22-2-24, notice is hereby given that on July 25, 2003 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on proposed new rules to establish a schedule of civil penalties for retail and manufactured food production and processing. Copies of these rules are now on file at the Health Care Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gregory A. Wilson, M.D.  
State Health Commissioner  
Indiana State Department of Health

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**TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH**

**Proposed Rule**  
LSA Document #03-19

**DIGEST**

Amends 410 IAC 3-3-7.1 to increase the newborn screening fee. Effective 30 days after filing with the secretary of state.

**410 IAC 3-3-7.1**

SECTION 1. 410 IAC 3-3-7.1 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 3-3-7.1 Newborn screening fund; fees; disposition; reporting requirements**

**Authority:** IC 16-19-3-4; IC 16-41-17-9  
**Affected:** IC 16-41-17

Sec. 7.1. (a) The program involving the ~~board~~ **Indiana state department of health** and MCH as described in this rule shall be furnished by a collection of a newborn screening fee for each newborn screened by a designated laboratory. The designated laboratory shall assess and collect the fees from hospitals, birthing centers, physicians, and midwives. The accumulated

collections from the newborn screening fees shall be submitted on a monthly basis by the designated laboratory to the division of finance at the ~~board~~ **Indiana state department of health**. Payments shall be postmarked not later than five (5) days after the close of the preceding month. The designated laboratory shall also submit a monthly report on the number of newborns screened. Revenues submitted by the laboratory shall correspond with the number of newborns screened.

(b) The fees shall be deposited in the newborn screening fund. Funds for the program described in this rule shall be disbursed by the ~~board~~ **Indiana state department of health** in accordance with normal procedures prescribed by the state budget agency and the state board of accounts.

(c) The newborn screening fee shall be ~~seven~~ **thirty** dollars (~~\$7~~) (**\$30**) based on the projected cost of the program described in this rule and the estimated number of newborns per year. The fee shall be reviewed annually by the ~~board~~ **Indiana state department of health**. (Indiana State Department of Health; 410 IAC 3-3-7.1; filed Feb 25, 1988, 4:30 p.m.: 11 IR 2580; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2223; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234)

**Notice of Public Hearing**

Under IC 4-22-2-24, notice is hereby given that on July 29, 2003 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on proposed amendments to increase the newborn screening fee. Copies of these rules are now on file at the Children and Family Health Services Commission, Indiana State Department of Health, 2 North Meridian Street and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gregory A. Wilson, M.D.  
State Health Commissioner  
Indiana State Department of Health

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**TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION**

**Proposed Rule**  
LSA Document #03-57

**DIGEST**

Adds 440 IAC 5.2 to establish standards for the certification and operation of assertive community treatment teams and requirements for community mental health centers. Effective 30 days after filing with the secretary of state.

**440 IAC 5.2**

## Proposed Rules

SECTION 1. 440 IAC 5.2 IS ADDED TO READ AS FOLLOWS:

### ARTICLE 5.2. ASSERTIVE COMMUNITY TREATMENT TEAMS CERTIFICATION

#### Rule 1. Definitions

##### 440 IAC 5.2-1-1 Applicability

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 1. The definitions in this rule apply throughout this article.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-1*)

##### 440 IAC 5.2-1-2 "Accreditation" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 2. "Accreditation" means an accrediting agency has determined that a community mental health center has met specific requirements of the accrediting agency.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-2*)

##### 440 IAC 5.2-1-3 "Accrediting agency" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 3. "Accrediting agency" means an organization, included on a list of accrediting organizations approved by the division, which has developed clinical, financial, and organizational standards for the operation of a provider of mental health services and which evaluates a provider's compliance with its established standards on a regularly scheduled basis.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-3*)

##### 440 IAC 5.2-1-4 "Assertive community treatment" or "ACT" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 4. "Assertive community treatment" or "ACT" means a multidisciplinary team that has the responsibility for the direct provision of community-based psychiatric treatment, assertive outreach, rehabilitation, and support services to an adult population with serious mental illness that also has cooccurring problems or multiple hospitalizations.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-4*)

##### 440 IAC 5.2-1-5 "Consumer" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 5. "Consumer" means an individual who is receiving assessment or mental health services from the assertive community treatment team.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-5*)

##### 440 IAC 5.2-1-6 "Division" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 6. "Division" means the division of mental health and addiction.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-6*)

##### 440 IAC 5.2-1-7 "Rural county" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 7. "Rural county" means a county with no city or town that has a population of fifty thousand (50,000) or more according to the most recent United States census.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-7*)

##### 440 IAC 5.2-1-8 "Urban county" defined

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 8. "Urban county" means a county with a city or town that has a population of fifty thousand (50,000) or more according to the most recent United States census.** (*Division of Mental Health and Addiction; 440 IAC 5.2-1-8*)

#### Rule 2. Certification of Assertive Community Treatment Teams

##### 440 IAC 5.2-2-1 Applicability

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 1. This article applies to all community mental health centers operating assertive community treatment teams.** (*Division of Mental Health and Addiction; 440 IAC 5.2-2-1*)

##### 440 IAC 5.2-2-2 Certification by the division

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

**Sec. 2. (a) Assertive community treatment teams must be part of a certified community mental health center (CMHC) that has been certified by the division for at least two (2) consecutive years at the time of application.**

**(b) The CMHC must have a contract with the office of vocational rehabilitation services for a supported employment program.**

**(c) Each ACT team serving consumers must be certified pursuant to this article.**

**(d) Each team must be certified and named independently. Certification is specific to a team.**

**(e) A CMHC that has one (1) or more certified teams must provide information related to services as requested by the division and must participate in the division's quality assurance program.**

(f) A CMHC must respond to a request from the division as fully as it is capable. Failure to comply with such a request may result in termination of the assertive community treatment team's certification.

(g) When a CMHC has demonstrated compliance with all applicable laws and rules, including the specific criteria in this article, a certificate for each team shall be issued and shall be posted in a conspicuous place in the facility open to consumers and the public. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-2*)

**440 IAC 5.2-2-3 Regular staff and operational standards**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

**Sec. 3. (a) A regular certified ACT team must be composed of the following staff:**

(1) A team leader who is assigned full time to the team and is a qualified mental health professional (QMHP) as defined in 405 IAC 5-21-1(c) with at least a master's degree and prior supervisory experience. Responsibilities shall be limited to the ACT team. The team leader shall perform the following roles:

- (A) Provide direct supervision of team members.
- (B) Function as a practicing clinician with consumer contact at least five (5) hours a week.

(2) No more than two (2) psychiatrists per team who provide in total a minimum of sixteen (16) hours a week per fifty (50) consumers. If the team includes two (2) psychiatrists, the agency must demonstrate full integration of the psychiatrists as members of the team. A psychiatrist or psychiatrists must perform the following critical roles:

- (A) Supervise the psychiatric treatment of all consumers, including psychiatric assessment and provision of needed psychopharmacologic treatment, and at least monthly assessment of the consumer's response to medications. If a consumer is in crisis more frequent assessment may be required.
- (B) Attend the majority of treatment planning meetings.
- (C) Attend at least two (2) daily ACT team meetings weekly.
- (D) Actively supervise and collaborate with all registered nurses (RNs) and all licensed practical nurses (LPNs).
- (E) Supervise the medication management system.

(3) At least one (1) full-time equivalent (FTE) registered nurse and a minimum of one (1) FTE registered nurse per fifty (50) consumers. The RNs shall have at least six (6) months of experience working with persons with mental illness, and perform the following critical roles:

- (A) In collaboration with the psychiatrist, manage the medication system and administer and document medication treatment.

- (B) Conduct health assessments within scope of practice.
- (C) Coordinate services with other health providers.
- (D) Provide training to other ACT team members to help them monitor psychiatric symptoms and medication side effects.

(4) At least one (1) FTE substance abuse specialist, who is credentialed in addictions counseling by a credentialing body approved by the division, or who has two (2) years of experience as a substance abuse counselor in a substance abuse program. The substance abuse counselor shall perform the following roles:

- (A) Take the lead in substance abuse assessment, planning, and treatment for all ACT consumers.
- (B) Provide treatment specifically indicated for consumers with mental illness and substance abuse for all consumers of the team.
- (C) Provide training to other ACT team members to help them identify substance abuse and monitor progress in treatment.

(5) At least one (1) FTE vocational specialist who works under a supported employment (SE) program operated by the agency under contract with the office of vocational rehabilitation services is assigned to the ACT team full time. All vocational specialists shall perform the following critical roles:

- (A) Provide a full range of supported employment services, for example, vocational assessment and planning, job development, job placement, job support, career counseling, follow along, maintains liaison with vocational rehabilitation counselors.
- (B) Provide training to other ACT team members regarding the range of supported employment services.

(6) All other team members must be assigned exclusively to the team and meet at least one (1) of the following requirements:

- (A) Have a bachelor's degree.
- (B) Be an RN or LPN who has been trained to work with consumers with mental illness.
- (C) Have a minimum of four (4) years of experience as a case manager.

No team shall have more than two (2) team members who do not meet the criteria listed in clause (A) or (B).

(7) A team may have no more than one (1) peer specialist that does not meet criteria listed in subdivision (6). A peer specialist shall be:

- (A) assigned to the team full time and participate in the clinical responsibilities and functions of the team in providing direct services to consumers; and
- (B) counted when calculating the case ration.

(8) All members of the team shall be individuals with experience working with persons with mental illness, as well as having the ability to establish caring, trusting relationships based on respect for individual consumers.

(9) Excluding the psychiatrists, the minimum team size shall be as follows:

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(A) Each team providing services to an urban county must have at least eight (8) FTE staff members.

(B) Each team providing services to a rural county must have at least six (6) FTE staff members.

(C) Clinical staff to consumer ratio must be at least 1:10.

(b) Each regularly certified team shall meet the following regular operational standards:

(1) All consumers admitted to the ACT team must meet the admission criteria as defined in section 4 of this rule.

(2) At least eighty percent (80%) of consumers must have 295-296 Axis I Diagnosis under Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association (DSM IV).

(3) Highest intake rate during a six (6) month period shall not exceed five (5) consumers per month.

(4) The program shall operate at least eight (8) hours per day, Monday through Friday. On weekends and holidays, at least two (2) hours of direct service shall be provided daily. A team member shall be on call all other hours.

(5) Consumers must be contacted face-to-face on average at least three (3) times per week.

(6) Consumers must be contacted face-to-face on average two (2) hours per week or more per consumer.

(7) At least seventy-five percent (75%) of all team contacts shall occur out of the office.

(8) An average of at least ninety percent (90%) of consumers shall have contact with three (3) or more team members per month.

(9) For a minimum of six (6) months, the team shall attempt at least two (2) face-to-face contacts per month for consumers who refuse services.

(10) At least eighty percent (80%) of inpatient admissions are planned jointly with the ACT team.

(11) At least eighty percent (80%) of inpatient discharges are planned jointly with the ACT team.

(12) Excluding planned graduations, at least eighty-five percent (85%) of the caseload is retained over a twelve (12) month period.

(13) All consumers are offered services on a time unlimited basis.

(14) Less than ten percent (10%) of consumers graduate annually (excluding dropouts).

(15) A team shall not serve more than one hundred twenty (120) consumers.

(16) The team must demonstrate consistent, well planned engagement strategies to prevent harm to the consumer or others; such strategies may include legal mechanisms, such as representative payee, outpatient commitment, and probation.

(17) The team shall effectively communicate and coordinate activities and comply with the following:

(A) Organizational team meetings shall be held daily, Monday through Friday, and attended by all team

members assigned to be on duty. During the organizational meeting, all consumers' status shall be briefly reviewed using a daily log and staff report. Services and contacts shall be scheduled according to treatment plans and triage.

(B) All team member contacts with consumers are logged and easily accessible to the entire team.

(18) The team shall provide emergency service backup, twenty-four (24) hours a day and make decisions about direct team intervention and comply with the following:

(A) A team member shall be available by phone or face-to-face with back up by team leader and a psychiatrist.

(B) The team shall have an active, ongoing collaboration with emergency services providers.

(19) The team shall operate at no less than eighty percent (80%) of full staffing during any twelve (12) month period.

*(Division of Mental Health and Addiction; 440 IAC 5.2-2-3)*

### 440 IAC 5.2-2-4 ACT admission and discharge criteria

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6

Affected: IC 12-24-19

Sec. 4. (a) All consumers admitted to ACT must meet the following criteria:

(1) Be an individual who is eighteen (18) years of age or older.

(2) The division criteria for persons with serious mental illness as defined in 440 IAC 8-2-2.

(3) The team specific, division approved admission criteria.

(b) The team specific, division approved admission criteria must be submitted with the initial application and should be objective and address the following:

(1) Discharge from long term psychiatric hospitalizations.

(2) Number of psychiatric hospitalizations or days hospitalized in the prior two (2) years.

(3) Criminal justice/legal system involvement despite mental health intervention.

(4) Difficult-to-treat substance abuse disorder of greater than six (6) months duration.

(5) Homelessness or unstable housing.

(6) Lack of consistent benefit from traditional mental health programs.

(c) At least eighty percent (80%) of consumers must have a diagnosis of 295-296 Axis I Diagnosis under Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association (DSM IV).

(d) Prior to the implementation of changes to team specific admission criteria an agency must submit, in writing, the revised admission criteria. Revised admission criteria may not be implemented until approved by the division.

(e) When consumers are discharged from ACT, documentation must include the following:

- (1) A gradual transfer period.
- (2) A plan to maintain continuity of treatment at appropriate levels of intensity to support the consumer's continued recovery.
- (3) A plan for consumers to easily return to the ACT team, if needed.

(Division of Mental Health and Addiction; 440 IAC 5.2-2-4)

**440 IAC 5.2-2-5 Support and rehabilitative services**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 5. (a) Based on consumer needs, the team performs the following case management functions for all ACT consumers:

- (1) Locate and maintain safe, affordable housing, with an emphasis on consumer choice and independent community housing.
- (2) Provide financial management support, including use of legal mechanisms such as representative payee.
- (3) Support and skills training in activities of daily living, including the following:
  - (A) Self-care.
  - (B) Homemaking.
  - (C) Financial management.
  - (D) Use of transportation.
  - (E) Use of health and social service resources.
- (4) Support and skills training in social, interpersonal relationship, and leisure time activities.
- (5) Education regarding mental illness or addiction issues.

(b) The ACT team monitors, provides supervision, education and consumer support in the administration of psychiatric medications for all ACT consumers.

(c) All team members monitor symptom response and medication side effects.

(d) ACT team educates consumers about symptom management and early identification of both premorbid and prodromal symptoms.

(e) The team shall actively and assertively engage and reach out to consumers' family members or significant others, after obtaining consumer permission. The team shall do the following:

- (1) Establish ongoing communication and collaboration between the team and family members.
- (2) Educate the family about mental illness and the family's role in treatment.
- (3) Educate the family about symptom management and early identification of both premorbid and prodromal symptoms.
- (4) Provide interventions to promote positive interpersonal relationships.

(f) The team shall facilitate consumer access to the following services:

- (1) Medical and dental services.
- (2) Social services.
- (3) Transportation and access to transportation.
- (4) Legal advocacy.

(Division of Mental Health and Addiction; 440 IAC 5.2-2-5)

**440 IAC 5.2-2-6 Program improvement and evaluation**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 6. (a) The ACT team shall monitor hospitalization, housing, and employment outcomes for all consumers.

(b) The ACT team shall monitor compliance with this article quarterly and modify team operations as indicated.

(c) The ACT team shall participate in the division quality assurance program. (Division of Mental Health and Addiction; 440 IAC 5.2-2-6)

**440 IAC 5.2-2-7 Regular certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 7. (a) Application for regular certification must include the following:

- (1) Documentation that the team has operated in compliance with the regular operational standards.
- (2) Documentation that the team meets the regular staffing standards.
- (3) The team's admission criteria.
- (4) All materials requested by the division.

(b) When the division determines that the provider meets the requirements for regular certification as set forth in this article the division shall issue a regular certification.

(c) The regular certification expires ninety (90) days after the expiration of the agency's accreditation.

(d) During the regular certification period the division may request the agency to submit documentation of ongoing compliance with this article.

(e) During the regular certification period the team shall maintain compliance with this article. (Division of Mental Health and Addiction; 440 IAC 5.2-2-7)

**440 IAC 5.2-2-8 Provisional certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 8. (a) A team that meets the provisional staff standards may apply for a provisional certification. Provisional certification will be effective for twelve (12) months.

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(b) A provisional certification application shall contain the following:

- (1) Documentation that the team meets the provisional staff standards.
- (2) A plan for the achievement of provisional operational standards.
- (3) The team's admission criteria.
- (4) All materials requested by the division.

(c) Provisional team staff standards are as follows:

- (1) The team members shall perform the functions as set forth in the regular staff standards.
- (2) The team leader must be assigned full time to the team and be a qualified mental health professional (QMHP) as defined in 405 IAC 5-21-1(c) and have at least two (2) years postgraduate experience in mental health and prior supervisory experience. The team leader must have at least bachelor's level training.
- (3) No more than two (2) psychiatrists must provide in total a minimum of twelve (12) hours per week per fifty (50) consumers.
- (4) At least seventy-five percent (75%) of a full-time equivalent (FTE) registered nurse and at least seventy-five percent (75%) of a FTE per fifty (50) consumers. The registered nurses (RNs) shall have at least six (6) months of experience working with persons with mental illness.
- (5) A substance abuse specialist as defined in section 3(a)(4) of this rule must be at least seventy-five percent (75%) of a FTE.
- (6) A vocational specialist must be at least twenty (20) hours per week and twenty (20) hours per fifty (50) consumers.
- (7) The remainder of the team members must comply with section 3(a)(6) and 3(a)(7) of this rule.
- (8) All members of the team shall be individuals with experience working with persons with mental illness, as well as having the ability to establish caring, trusting relationships based on respect for individual consumers.
- (9) Excluding the psychiatrists, the minimum team size shall be as follows:
  - (A) Each team providing services to an urban county must have at least six (6) FTE staff members.
  - (B) Each team providing services to a rural county must have at least four (4) FTE staff members.
  - (C) Clinical staff to consumer ratio must be at least 1:13.

(d) Provisional operational standards are as follows:

- (1) All consumers admitted to the ACT team must meet the admission criteria as defined in section 4 of this rule.
- (2) Subsequent provisional certifications require that the highest intake rate during the past six (6) months, as calculated from the ending of the first provisional certification, must not exceed five (5) consumers per month.
- (3) The program operates at least eight (8) hours per day, Monday through Friday. On weekends and holidays, at

least two (2) hours of direct service shall be provided daily. A team member shall be on call all other hours.

- (4) Across total consumer population, consumers must be contacted face-to-face an average of at least two (2) times per week.
- (5) Across total consumer population, consumers must be contacted face-to-face an average of ninety (90) minutes per week or more per consumer.
- (6) At least sixty percent (60%) of all team contacts occur out of the office.
- (7) An average of at least sixty-five percent (65%) of consumers have contact with three (3) or more team members per month.
- (8) For a minimum of six (6) months, the team shall attempt at least two (2) face-to-face contacts per month for consumers who refuse services.
- (9) At least sixty-five percent (65%) of inpatient admissions are planned jointly with the ACT team.
- (10) At least sixty-five percent (65%) of inpatient discharges are planned jointly with the ACT team.
- (11) Excluding planned graduations, at least eighty percent (80%) of the caseload is retained over a twelve (12) month period.
- (12) All consumers are offered services on a time unlimited basis.
- (13) Less than ten percent (10%) of consumers graduate annually (excluding dropouts).
- (14) A team shall not serve more than one hundred twenty (120) consumers.
- (15) The team must demonstrate consistent, well planned engagement strategies to prevent harm to the consumer or others; such strategies may include legal mechanisms, such as representative payee, outpatient commitment, and probation.
- (16) The team shall effectively communicate and coordinate activities and comply with the following:
  - (A) Organizational team meeting shall be held daily Monday through Friday, and attended by all team members assigned to be on duty. During the organizational meeting, all consumers' status shall be briefly reviewed using a daily log and staff report. Services and contacts shall be scheduled according to treatment plans and triage.
  - (B) All team member contacts with consumers are logged and easily accessible to the entire team.
- (17) The team shall provide emergency service backup, twenty-four (24) hours a day and make decisions about direct team intervention and comply with the following:
  - (A) A team member shall be available by phone or face-to-face with back up by team leader and a psychiatrist.
  - (B) The team shall have an active, ongoing collaboration with emergency services providers.
- (18) The team shall operate at no less than eighty percent (80%) of full staffing during any twelve (12) month period.

(e) Prior to the expiration of the provisional certification, the community mental health center may apply for an extension of the provisional certification or for regular certification.

(f) For an extension of the provisional certification, the agency must submit documentation to demonstrate that the team has done the following:

- (1) Operated at the provisional operational standards.
- (2) Has a plan to meet the regular operational standards.
- (3) Meets the regular staffing standards.
- (4) Complies with all request for the material by the division.

(g) Upon verification of meeting the requirements in subsection (e), the provisional certification may be extended for no more than twelve (12) months.

(h) Before the extended provisional certification expires, the agency must demonstrate compliance with regular certification requirements and apply for regular certification.

(i) During the provisional certification period, the division may request the agency to submit documentation of ongoing compliance with this article.

(j) During the provisional certification period, the team shall maintain compliance with this article. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-8*)

#### **440 IAC 5.2-2-9 Notification of change**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19; IC 12-27

Sec. 9. (a) Notwithstanding subsection (b), an agency must notify the division, in writing, of any of the following within thirty (30) days after the occurrence:

- (1) Documented violation of the rights of an individual being treated for mental illness under IC 12-27.
- (2) Change in staffing.
- (3) Suicide attempt by a consumer.
- (4) The death of a consumer.

(b) Prior to implementation of changes to team specific admission criteria an agency must submit, in writing, the revised admission criteria. Revised admission criteria may not be implemented until approved by the division. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-9*)

#### **440 IAC 5.2-2-10 Conditional certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 10. (a) The division shall issue the team a conditional certification under this article upon the division's investigation and determination of any of the following conditions:

- (1) Failure to comply with this article.
- (2) A substantive change in the agency's accreditation status other than revocation of the accreditation.
- (3) Failure of the agency to renew accreditation within ninety (90) days following expiration of the agency's current accreditation.
- (4) A substantive change in the agency's community mental health center's certification status other than termination.
- (5) Conduct or any practice in the operation of the agency that is found by the division to be detrimental to the welfare of persons served by the team.
- (6) Violation of a federal or state statute, rule, or regulation in the course of the operation of this agency.

(b) The time period of a conditional certification is determined by the division, but may not exceed twelve (12) months. The division shall notify the agency of the following:

- (1) The requirements not met and actions the agency must take to meet those requirements.
- (2) The time period granted by the division for the agency to meet the requirements.

(c) The division shall reinstate certification if the agency meets the requirements.

(d) The division shall terminate the team's certification if the agency fails to meet the requirements within the allotted time period. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-10*)

#### **440 IAC 5.2-2-11 Termination of certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 11. (a) The division shall terminate the certification of the team if one (1) of the following occurs:

- (1) The agency's accreditation is revoked.
- (2) The ACT team that has a conditional certification under section 10 of this rule does not meet the requirements of the division within the period of time required.
- (3) The ACT team fails to meet the standards to progress from provisional certification in section 8 of this rule to regular certification in section 7 of this rule.
- (4) The agency's community mental health center certification is terminated.

(b) If a team's certification is terminated, the community mental health center cannot apply for certification of a new ACT team for twelve (12) months after the termination effective date. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-11*)

#### **440 IAC 5.2-2-12 Transfer of certification**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-24-19-6  
Affected: IC 12-24-19

Sec. 12. Each certification is specific to one (1) team. The

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certification may not be transferred to another team within the agency. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-12*)

### 440 IAC 5.2-2-13 Appeal rights

Authority: IC 12-21-2-3  
Affected: IC 4-21.5-3

**Sec. 13.** An agency that is aggrieved by any adverse action taken under this rule may appeal the action under IC 4-21.5-3. (*Division of Mental Health and Addiction; 440 IAC 5.2-2-13*)

### Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 22, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on a proposed amendment to establish standards for the certifications and operation of assertive community treatment teams and requirements for mental health centers. Written comments may be directed to Indiana Government Center-South, 402 West Washington Street, Room W353, Division of Mental Health and Addiction, Certification, Attention: Pam K. Johnson, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS: RE: PROPOSED RULE LSA Document #03-57: ACT". Written comments received will be made available for public display at the above listed address of the Office of General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Suzanne Clifford  
Director  
Division of Mental Health and Addiction

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## TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

**Proposed Rule**  
LSA Document #03-99

### DIGEST

Adds 460 IAC 8 to establish provisions affecting providers of assisted living services under the Medicaid waiver authorized by P.L.100-2000. Effective 30 days after filing with the secretary of state.

### 460 IAC 8

SECTION 1. 460 IAC 8 IS ADDED TO READ AS FOLLOWS:

## ARTICLE 8. ASSISTED LIVING MEDICAID WAIVER SERVICES

### Rule 1. Assisted Living Medicaid Waiver Services

#### 460 IAC 8-1-1 Application of rule

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-15; IC 16-28

**Sec. 1.** This rule applies to the provision of assisted living Medicaid waiver services in residential care facilities licensed under IC 16-28 and 410 IAC 16.2-5. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-1*)

#### 460 IAC 8-1-2 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-8-6-1; IC 12-9-1-1; IC 12-10-1-1; IC 12-10-1-4; IC 12-10-13-4.5; IC 12-15; IC 16-28; IC 16-36-1-5

**Sec. 2.** The following definitions apply throughout this rule:

(1) "Activities of daily living" means those personal functional activities required by a recipient for continued well being, including the following:

- (A) Mobility.
- (B) Dressing.
- (C) Bathing.
- (D) Eating.
- (E) Toileting.
- (F) Transferring.

(2) "Aging in place" means being in a care environment that will provide the recipient with a range of care options as the needs of the recipient change. Aging in place does not preclude assisting a recipient in relocating to a new care environment, if necessary.

(3) "Applicant" means a natural person or entity that applies to provide assisted living Medicaid waiver services.

(4) "Area agency on aging" means the agency designated by the BAIHS services in each planning and service area under IC 12-10-1-4(18).

(5) "Assessed impairment level" means the level of service needed by a recipient as determined using the level of service assessment form.

(6) "Assisted living Medicaid waiver services" means the array of services provided to a recipient residing in a facility, including any or all of the following:

- (A) Personal care services.
  - (B) Homemaker services.
  - (C) Chore services.
  - (D) Attendant care services.
  - (E) Companion services.
  - (F) Medication oversight (to the extent permitted under state law).
  - (G) Therapeutic social and recreational programming.
- (7) "Assisted living Medicaid waiver services provider"

means an entity approved to provide assisted living Medicaid waiver services.

(8) "Attendant care" means hands-on care, of both a supportive and health-related nature, specific to the needs of a medically stable, physically disabled individual.

(9) "BAIHS" means the bureau of aging and in-home services as created under IC 12-10-1-1.

(10) "Case manager" means the individual or agency enrolled by the office of Medicaid policy and planning chosen by the recipient to provide case management services.

(11) "Choice" means a recipient has viable options that enable him or her to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility to provide opportunities for recipients to select where and how to spend time and receive personal assistance.

(12) "Chore services" means services needed to maintain the recipient's residential unit in a clean, sanitary, and safe environment.

(13) "Companion services" means nonmedical care, supervision, and socialization services. It does not include assisting or supervising the recipient with meal preparation, laundry, or shopping.

(14) "Complaint" means an allegation that an assisted living Medicaid waiver services provider has violated this article or a dissatisfaction relating to the condition of the facility or the recipient.

(15) "Dignity" means providing support in such a way as to validate the self-worth of the recipient. Dignity is supported by designing a structure that allows personal assistance to be provided in privacy and delivering services in a manner that shows courtesy and respect.

(16) "Division" means the division of disability, aging, and rehabilitative services created under IC 12-9-1-1.

(17) "Facility" means a facility licensed under IC 16-28 and 410 IAC 16.2-5.

(18) "Homelike" means an environment that has the qualities of a home, including privacy, comfortable surroundings, and the opportunity to modify one's living area to suit one's individual preferences, which promotes the dignity, security, and comfort of recipients through the provision of personalized care and services to encourage independence, choice, and decision making by the recipients. A homelike environment also provides recipients with an opportunity for self-expression, and encourages interaction with the community, family, and friends.

(19) "Homemaker services" means services consisting of general household activities, including meal preparation and routine household care.

(20) "Independence" means being free from the control of others and being able to assert one's own will, personality, and preferences within the parameters of the house rules or residency agreement.

(21) "Interdisciplinary team" means a group of individuals, which must include the recipient, and which may be composed of, but is not limited to:

- (A) the recipient's family and/or legal representative;
- (B) the recipient's case manager;
- (C) a registered nurse; and
- (D) the provider of service;

who work together to develop the recipient's individual plan of care.

(22) "Legal representative" means a person who is:

- (A) a guardian;
- (B) a health care representative;
- (C) an attorney in fact; or
- (D) a person authorized by IC 16-36-1-5 to give health care consent.

(23) "Level of service" means the specific level of service that an assisted living Medicaid waiver services provider is authorized to provide to a recipient in accordance with the recipient's plan of care and that is based on the assessed impairment level of the recipient.

(24) "Medication oversight services" means personnel operating within the scope of applicable licenses and/or certifications providing reminders or cues to recipients to take medication, open pre-set medication containers, and handle and/or dispense medication.

(25) "Office of Medicaid policy and planning" means the office of Medicaid policy and planning created by IC 12-8-6-1.

(26) "Ombudsman" means a representative of the office of the state long term care ombudsman as provided in IC 12-10-13-4.5.

(27) "Personal care services" means assistance with eating, bathing, dressing, personal hygiene, and activities of daily living.

(28) "Plan of care" means the written plan developed by the interdisciplinary team, on which the recipient's case manager documents the proposed Medicaid waiver services, the Medicaid state plan services, as well as other medical services and social services and informal community supports that are needed by the recipient to ensure the health and welfare of the recipient.

(29) "Provider" means an entity approved under this article to provide assisted living Medicaid waiver services.

(30) "Recipient" means an individual who is receiving assisted living Medicaid waiver services.

(31) "Room and board" means the provision of meals, a place to sleep, laundry, and housekeeping.

(32) "Service plan" means a written plan for services to be provided by the provider, developed by the provider, the recipient, and others, if appropriate, on behalf of the recipient, consistent with the services needed to ensure the health and welfare of the recipient. It is a detailed description of the capabilities, needs, choices, measurable goals, and if applicable the measurable goals and man-

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aged risk issues, and documents the specific duties to be performed for the recipient, including who will perform the task, when, and the frequency of each task based on the individual's assessed needs and preferences.

(33) "Services" means activities that:

(A) help a recipient develop skills to increase or maintain level of functioning; or

(B) assist the recipient in performing personal care or activities of daily living or individual social activities.

(34) "Supportive services" means services that substitute for the absence, loss, diminution, or impairment of a physical or cognitive function.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-2)*

### 460 IAC 8-1-3 Provider approval

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-15; IC 12-15; IC 16-28

**Sec. 3.** In order to be approved by the division to provide assisted living Medicaid waiver services, an applicant shall do the following:

(1) Complete an application form prescribed by the division.

(2) Submit evidence that the applicant has:

(A) a license required by IC 16-28 and 410 IAC 16.2-5 for each facility at which assisted living Medicaid waiver services will be provided; and

(B) registered each facility at which assisted living services will be provided as a housing with services establishment under IC 12-10-15.

(3) Indicate what level of services the applicant will provide.

(4) Submit a written and signed statement that the applicant will comply with the provisions of this article.

(5) Submit a written and signed statement that assisted living Medicaid waiver services will not be provided at a facility that is not licensed pursuant to IC 16-28 and 410 IAC 16.2-5.

(6) Submit a written and signed statement that assisted living Medicaid waiver services will not be provided at a facility that is not registered as a housing with services establishment under IC 12-10-15.

(7) Submit a written and signed statement that the applicant will provide services to a recipient as set out in the recipient's plan of care.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-3)*

### 460 IAC 8-1-4 Decision on approval; administrative review; provider agreement

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-15; IC 12-15; IC 16-28

**Sec. 4.** (a) The division shall determine whether an

applicant meets the requirements under this article.

(b) The division shall notify an applicant in writing of the division's determination within sixty (60) days of submission of a completed application.

(c) If an applicant is adversely affected or aggrieved by the division's determination, the applicant may request administrative review of the determination. Such request shall be made in writing and filed with the direction of the division within fifteen (15) days after the applicant receives written notice of the division's determination. Administrative review shall be conducted pursuant to IC 4-21.5.

(d) Once an applicant has been approved by the division to provide assisted living Medicaid waiver services, an applicant cannot provide assisted living Medicaid waiver services until the applicant has completed and submitted a Medicaid waiver assisted living provider agreement.

(e) No person or entity shall represent themselves as operating as an assisted living Medicaid waiver provider or accept placement of a recipient without first being approved to provide assisted living Medicaid waiver services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-4)*

### 460 IAC 8-1-5 Facility requirements

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-15-7; IC 12-15; IC 16-28

**Sec. 5.** (a) Each facility at which assisted living Medicaid waiver services are provided shall meet the following requirements:

(1) Maintain a current residential care facility license as required by IC 16-28 and 410 IAC 16.2-5.

(2) Comply with the requirements of IC 12-10-15.

(3) Provide assisted living Medicaid waiver service recipients with individual residential living units that include the following:

(A) A bedroom.

(B) A private bath.

(C) A substantial living area.

(D) A kitchenette that contains a refrigerator, a food preparation area, and a microwave or stovetop for hot food preparation.

(b) If a facility was in operation prior to July 1, 2001, and was in compliance with the requirements of IC 12-10-15-7 on June 30, 2001, individual living units provided to recipients shall have a minimum of one hundred sixty (160) square feet of livable floor space, including closets and counters, but excluding space occupied by the bathroom.

(c) If a facility was in operation prior to the effective date of this rule and was licensed under 410 IAC 16.2-5, individ-

ual living units provided to recipients shall contain the following:

- (1) A substantial living area of at least one hundred sixty (160) square feet of livable floor space, including closets and counter space, but excluding space occupied by the bathroom.
- (2) A sleeping area, not necessarily designated as a separate bedroom from the living area.
- (3) A semiprivate bath or shower.
- (4) A kitchenette that contains a refrigerator, a food preparation area, and a microwave.
- (5) Access to a stovetop/oven for hot food preparation in the common area.

(d) All other facilities shall provide recipients with individual living units meeting the following additional requirements:

- (1) Contain a minimum of two hundred twenty (220) square feet of livable space including closets and counters, but excluding space occupied by the bathroom.
- (2) Contain a bath that is wheelchair accessible. Fifty percent (50%) of the units available to recipients shall have a roll-in shower.
- (3) Contain individual thermostats.

(e) Residential units provided to recipients must be single units unless the recipient chooses to live in dual occupied unit and the recipient and the other occupant consent to the arrangement.

(f) Residential units provided to recipients shall be able to be locked at the discretion of the recipient, unless a physician or a mental health professional certifies in writing that the recipient is cognitively impaired so as to be a danger to self or others if given the opportunity to lock the door. This subsection does not apply if this requirement conflicts with applicable fire codes. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-5*)

**460 IAC 8-1-6 Assisted living Medicaid waiver services**

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-15; IC 16-28-13-1

Sec. 6. (a) The provider shall provide the following assisted living Medicaid waiver services:

- (1) Personal care services.
- (2) Homemaker services.
- (3) Chore services.
- (4) Attendant care services, including supportive services.
- (5) Companion services.
- (6) Medication oversight services as permitted by state law.
- (7) Therapeutic, social, and recreational programming.

(b) Assisted living Medicaid waiver services shall be provided to a recipient as outlined in a recipient's plan of care, as developed by the recipient's case manager and

interdisciplinary team, as follows:

(1) The provider shall provide the intensity and level of services as outlined in the recipient's plan of care. The intensity and level of services shall range from Level 1 for recipients who are the least impaired and require the least intense level of services to Level 3 for the most severely impaired recipients who require the most intense level of services.

(2) Should a recipient require more intense assisted living Medicaid waiver services (a higher level of services) than the provider is approved to provide, or require services more intense than Level 3, the provider shall assist the recipient in transferring to a more appropriate setting and shall observe all discharge requirements of 410 IAC 16.2-5.

(c) The initial plan of care must be approved by the office of Medicaid policy and planning prior to the initiation of assisted living Medicaid waiver services. It must be updated at least every ninety (90) days and annually or when the recipient experiences a significant change per 410 IAC 16.2-1.1-70.

(d) Provider staff shall provide information to the recipient's interdisciplinary team, as requested by the recipient's interdisciplinary team. If requested by a recipient and/or recipient's case manager, appropriate provider staff shall serve on a recipient's interdisciplinary team.

(e) All direct care shall be provided by personnel specified in IC 16-28-13-1.

(f) As appropriate, services shall be provided to recipients in their own living units.

(g) The physical environment and the delivery of assisted living Medicaid waiver services shall be designed to enhance autonomy in ways that reflect personal and social values of dignity, privacy, independence, individuality, choice, and decision making of recipients. The provider shall provide services in a manner that:

- (1) makes the services available in a homelike environment for recipients with a range of needs and preferences;
- (2) facilitates aging in place by providing flexible services in an environment that accommodates and supports the recipient's individuality; and
- (3) supports negotiated risk, which includes the recipient's right to take responsibility for the risks associated with decision making.

(h) If requested by a recipient, the provider will assist a recipient and a recipient's case manager in obtaining, arranging, and coordinating services outlined in a recipient's plan of care that are not assisted living Medicaid waiver services.

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(i) Should other entities furnish care directly, or under arrangement with the provider, that care shall supplement the care provided by the provider but may not supplant it. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-6*)

### 460 IAC 8-1-7 Levels of service; level of service assessment/evaluation tool; provider enrollment

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-15

Sec. 7. (a) Assisted living Medicaid waiver services will be provided and paid according to three (3) levels of service, with Level 1 being the least impaired and Level 3 the most impaired/dependent. No assisted living Medicaid waiver services may be provided that meet the skilled level of care as defined in 405 IAC 1-3-1.

(b) The impairment level assessment tool for assisted living Medicaid waiver services will be based on the point system definitions designated on the "level of service assessment form" and will be documented on forms prescribed by the division. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-7*)

### 460 IAC 8-1-8 General service standards

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-15

Sec. 8. (a) A provider shall provide assisted living Medicaid waiver services only to persons approved by the office of Medicaid policy and planning to receive assisted living Medicaid waiver services.

(b) A provider shall do the following:

- (1) Ensure that recipients have control over their time, space, and lifestyle to the extent that the health, safety, and well-being of other recipients is not disturbed.
- (2) Promote the recipient's right to exercise decision making and self-determination to the fullest extent possible.
- (3) Provide services for recipients in a manner and in an environment that encourages maintenance or enhancement of each recipient's quality of life, and promotes the recipient's privacy, dignity, choice, independence, individuality, and decision making ability.
- (4) Provide a safe, clean, and comfortable homelike environment, allowing recipients to use their personal belongings to the extent possible.

(c) The provider shall complete a service plan within thirty (30) days of move-in or the recipient's receipt of assisted living Medicaid waiver services.

(d) The provider shall ensure the service plan does the following:

(1) Includes recognition of the recipient's capabilities and choices and defines the division of responsibility in the implementation of services.

(2) Addresses, at a minimum, the following elements:

- (A) Assessed health care needs.
  - (B) Social needs and preferences.
  - (C) Personal care tasks.
  - (D) Limited nursing and medication services, if applicable, including frequency of service and level of assistance.
- (3) Is signed and approved by the recipient, the provider, the registered nurse, the case manager.
- (4) Includes the date the plan was approved.

(e) The service plan shall support the principles of dignity, privacy, and choice in decision making, individuality, and independence.

(f) The provider shall provide the recipient, case manager, and area agency on aging with a copy of the service plan and place a copy in the recipient's record.

(g) The provider shall update the plan when there are changes in the services the recipient needs and wants to receive. At a minimum, the provider shall review the service plan every ninety (90) days for assisted living recipients. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-8*)

### 460 IAC 8-1-9 Negotiated risk plan appropriate to level of service

Authority: IC 12-8-8-4; IC 12-9-2-3  
Affected: IC 12-15

Sec. 9. (a) If deemed appropriate and determined to be necessary by a recipient's interdisciplinary team, the provider shall establish a negotiated risk plan with a recipient.

(b) The negotiated risk plan shall address unusual situations in which a recipient's assertion of a right, preference, or behavior exposes the recipient or someone else to a real and substantial risk of injury.

(c) The negotiated risk plan shall identify and accommodate a recipient's need in a way that is acceptable to both the provider and the recipient.

- (d) A negotiated risk plan shall include the following:
- (1) An explanation of the cause or causes of concern.
  - (2) The possible negative consequences to the recipient and/or others.
  - (3) A description of the recipient's preferences.
  - (4) Possible alternatives or interventions to minimize the potential risks associated with the recipient's preference/action.

(5) A description of the assisted living Medicaid waiver services the provider will provide to accommodate the recipient's choice or minimize the potential risk and services others entities will provide to accommodate the recipient's choice or minimize the potential risk.

(6) The final agreement, if any, reached by all involved parties.

(e) The provider shall involve the recipient and the recipient's interdisciplinary team in developing, implementing, and reviewing a negotiated risk plan.

(f) The provider shall review a negotiated risk plan with a recipient and a recipient's team at least quarterly. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-9)*

**460 IAC 8-1-10 Recipient records**

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-13; IC 12-15

Sec. 10. (a) An individual recipient record shall be developed and kept current and available on the premises for each recipient receiving assisted living Medicaid waiver services. In addition to the requirements of 410 IAC 16.2-5-8.1, a recipient's record shall include the following:

- (1) Plan of care.
- (2) Negotiated risk agreement, if any.
- (3) A written report of all significant incidents relating to the health or safety of a recipient, including the following:
  - (A) How and when the incident occurred.
  - (B) Who was involved.
  - (C) What action was taken by provider staff.
  - (D) The outcome to the recipient.

(b) Recipient records shall be readily available to all of the following:

- (1) Caregivers.
- (2) Representatives of the office of Medicaid policy and planning.
- (3) The division.
- (4) Recipients.
- (5) A recipient's authorized representatives.
- (6) A recipient's case manager.
- (7) Interdisciplinary team members.
- (8) The ombudsman, as provided for by IC 12-10-13.
- (9) Other legally authorized persons.

(c) Records shall be kept for the time period required by 410 IAC 16.2-5-8.1 or a minimum of three (3) years, whichever is longer.

(d) If a recipient is transferred, discharged or the provider otherwise ceases to provide services, the recipient's records shall be transferred with the recipient pursuant to 410 IAC 16.2-5-8.1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-10)*

**460 IAC 8-1-11 Administration**

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3-9; IC 12-10-13; IC 12-15

Sec. 11. The provider shall do the following:

- (1) Comply with all requirements of this article.
- (2) Ensure all provider staff are knowledgeable about applicable recipient rights.
- (3) Not require a recipient to sign any admission contract or agreement that purports to waive any rights of the recipient.
- (4) Develop and implement a complaint procedure and process that is responsive to recipient's complaints to assist in resolving agreement disputes between recipients and the provider.
- (5) Adopt procedures for securing and recording complaints and endorsements filed by recipients, recipients' designated representatives, and recipients' family members.
- (6) Post in a place and manner clearly visible to recipients and visitors the Indiana state department of health, state and local ombudsman toll-free complaint telephone numbers, and telephone numbers for contacting a case manager through the local area agency on aging.
- (7) Comply with all federal and state statutory and regulatory requirements regarding nondiscrimination in all aspects of the provider's operation.
- (8) Encourage recipients and the recipient council, if there is one, to provide input to the facility about recipients' preferences for food choices, taking into account the cultural and religious needs of recipients.
- (9) Ensure all instances of suspected abuse, neglect, exploitation, or abandonment are reported to the adult protective services program, as required in IC 12-10-3-9 and 460 IAC 1-2-10, and to the local law enforcement agency.
- (10) Not have any sexual contact with any recipient and shall ensure that provider staff and students not have sexual contact with any recipient.
- (11) Permit the office of Medicaid policy and planning, the division, the ombudsman, and other state representatives to enter the facility without prior notification in order to monitor the provider's compliance with this article and to conduct complaint investigations, including, but not limited to, observing and interviewing recipients and accessing recipient records.

*(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-11)*

**460 IAC 8-1-12 Payment for room and board**

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-15

Sec. 12. Each recipient is responsible for payment of the room and board services. The provider shall charge recipients room and board rates that are no higher than the

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**SSI rate current at the time room and board services are provided, less the amount of the personal needs allowance for room and board for Medicaid eligible individuals.** (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 8-1-12)

### Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 22, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing on a proposed new rule concerning provisions affecting providers of assisted living services under the Medicaid waiver authorized by P.L.100-2000. If an accommodation is required to allow an individual with a disability to participate in this meeting, please contact Kevin Wild at (317) 233-2582 at least 48 hours prior to the meeting. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Howard Stevenson  
General Counsel  
Division of Disability, Aging, and Rehabilitative  
Services

## TITLE 760 DEPARTMENT OF INSURANCE

### Proposed Rule LSA Document #03-7

#### DIGEST

Amends 760 IAC 1-57 to include the most recent changes by the National Association of Insurance Commissioners to the Actuarial Opinion and Memorandum Model Regulation. Effective December 31, 2003.

<b>760 IAC 1-57-1</b>	<b>760 IAC 1-57-6</b>
<b>760 IAC 1-57-2</b>	<b>760 IAC 1-57-7</b>
<b>760 IAC 1-57-3</b>	<b>760 IAC 1-57-8</b>
<b>760 IAC 1-57-4</b>	<b>760 IAC 1-57-9</b>
<b>760 IAC 1-57-5</b>	<b>760 IAC 1-57-10</b>

SECTION 1. 760 IAC 1-57-1 IS AMENDED TO READ AS FOLLOWS:

#### 760 IAC 1-57-1 Authority

Authority: IC 27-1-12-10.1  
Affected: IC 27-1-12-10

Sec. 1. This rule is adopted and promulgated pursuant to the authority granted by IC 27-1-12-10.1. (Department of Insur-

ance; 760 IAC 1-57-1; filed May 16, 1997, 9:30 a.m.: 20 IR 2778)

SECTION 2. 760 IAC 1-57-2 IS AMENDED TO READ AS FOLLOWS:

#### 760 IAC 1-57-2 Purpose

Authority: IC 27-1-12-10.1  
Affected: IC 27-1-12-10.1

Sec. 2. The purpose of this rule is to prescribe the following:  
(1) Guidelines and standards for statements of actuarial opinion that are to be submitted in accordance with IC 27-1-12-10.1 and for memoranda in support thereof.

~~(2) Guidelines and standards for statements of actuarial opinion that are to be submitted when a company is exempt from IC 27-1-12-10.1.~~

~~(3) (2) Rules applicable to the appointment of an appointed actuary.~~

(Department of Insurance; 760 IAC 1-57-2; filed May 16, 1997, 9:30 a.m.: 20 IR 2778)

SECTION 3. 760 IAC 1-57-3 IS AMENDED TO READ AS FOLLOWS:

#### 760 IAC 1-57-3 Scope

Authority: IC 27-1-12-10.1  
Affected: IC 27-1-12-10; IC 27-11-8-2

Sec. 3. (a) This rule shall apply to:

- (1) all life insurance companies and fraternal benefit societies doing business in this state;
- (2) all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in this state; and
- (3) any annual statement filed with the commissioner after the effective date of this rule.

(b) A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with section 8 of this rule, and a memorandum in support thereof in accordance with section 9 of this rule, shall be required each year. ~~This subsection does not apply to any company that is exempted from this subsection pursuant to section 6 of this rule.~~

~~(c) Any company that is exempt pursuant to section 6 of this rule from the requirements of subsection (b); must file a statement of actuarial opinion pursuant to section 7 of this rule.~~

~~(d) Notwithstanding subsection (c); the commissioner may require any company to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with sections 8 and 9 of this rule if the commissioner determines that an asset adequacy analysis is necessary with respect to the company.~~ (Department of Insurance; 760 IAC 1-57-3; filed May 16, 1997, 9:30 a.m.: 20 IR 2778)

SECTION 4. 760 IAC 1-57-4 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-4 Definitions**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10; IC 27-1-20-21

Sec. 4. The following definitions apply throughout this rule, IC 27-1-12-10, and IC 27-1-12-10.1:

- (1) "Actuarial opinion" means
  - (A) with respect to section 8, 9, or 10 of this rule, the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with section 8 of this rule and with presently accepted actuarial standards. and
  - (B) with respect to section 7 of this rule, the opinion of an appointed actuary regarding the calculation of reserves and related items in accordance with section 7 of this rule and with those presently accepted actuarial standards that specifically relate to that opinion.
- (2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.
- (3) "Annual statement" means the statement required by IC 27-1-20-21 to be filed by the company with the department annually.
- (4) "Appointed actuary" means any individual who meets the requirements of section 5(c) of this rule.
- (5) "Asset adequacy analysis" means an analysis that meets the requirements of section 5(d) of this rule. The term includes cash flow testing, sensitivity testing, or applications of risk theory.
- (6) "Commissioner" means the commissioner of the department of insurance.
- (7) "Company" means a life insurance company, fraternal benefit society, or reinsurer subject to this rule.
- (8) "Department" means the department of insurance.
- (9) "NAIC" means the National Association of Insurance Commissioners.
- (10) "Noninvestment grade bonds" means bonds designated as Class 3, 4, 5, or 6 by the NAIC securities valuation office.
- (11) "Qualified actuary" means any individual who meets the requirements of section 5(b) of this rule.

*(Department of Insurance; 760 IAC 1-57-4; filed May 16, 1997, 9:30 a.m.: 20 IR 2778)*

SECTION 5. 760 IAC 1-57-5 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-5 General requirements**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10

Sec. 5. (a) Requirements for the submission of statement of actuarial opinion shall be as follows:

- (1) A statement entitled "Statement of Actuarial Opinion",

that meets the requirements of section 8 of this rule and is rendered by an appointed actuary shall be included on or attached to page 1 of the annual statement of any company. (2) A statement of actuarial opinion that meets the requirements of section 7 of this rule and is rendered by an appointed actuary shall be included on or attached to page 1 of the annual statement of any company exempted pursuant to section 6 of this rule from the requirements of section 8 of this rule.

(3) If, in the previous year, a company provided a statement of actuarial opinion in accordance with section 7 of this rule, and, in the current year, does not meet the exemption criteria of section 6(c)(1), 6(c)(2), or 6(c)(5) of this rule, the company shall provide a statement of actuarial opinion in accordance with section 7 with an appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with section 8 of this rule. The statement of actuarial opinion in accordance with section 8 of this rule shall not be required until August 1 following the date of the annual statement.

(4) The commissioner may accept the statement of actuarial opinion filed by a foreign or alien company with the insurance regulator of another state if the commissioner determines that the opinion meets the requirements applicable to a company domiciled in this state.

(5) (2) The commissioner may grant an extension of the date for submission of the statement of actuarial opinion upon written request by a company.

(b) As used in this section, "qualified actuary" means an individual who:

- (1) is a member in good standing of the American Academy of Actuaries;
- (2) is qualified to sign a statement of actuarial opinion for any life or health insurance company annual statement in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;
- (3) is familiar with the valuation requirements applicable to life and health insurance companies;
- (4) has not been found by the commissioner (or, if so found, has been subsequently reinstated as a qualified actuary), following appropriate notice and hearing, to have:

(A) violated any provision of, or any obligation imposed by, IC 27 or other law in the course of his or her dealings as a qualified actuary;

(B) been found guilty of fraudulent or dishonest practices;

(C) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(D) submitted to the commissioner during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or

(E) resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in

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any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and (5) has not failed to notify the commissioner of any action similar to that described in subdivision (4) taken by any insurance supervisory regulator of any other state.

(c) As used in this rule, "appointed actuary" means a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by IC 27-1-12-10.1 and this rule, either directly by a company or by the authority of the board of directors through an executive officer of a company. Notice requirements shall be as follows:

(1) A company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements in subsection (b).

(2) A company shall give the commissioner timely notice in the event an appointed actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in subsection (b).

(3) If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(d) The asset adequacy analysis required by this rule **shall**:

(1) ~~shall~~ conform to the standards of practice promulgated by the Actuarial Standards Board and any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with section 8 of this rule; and

(2) ~~shall~~ be based on methods of analysis deemed appropriate for such purposes by the Actuarial Standards Board.

(e) Liabilities to be covered shall be as follows:

(1) Pursuant to IC 27-1-12-10.1, the statement of actuarial opinion shall apply to all in force business on the annual statement date regardless of when or where issued. ~~for example, reserves of Exhibits 8, 9, and 10 and claim liabilities in Exhibit 11, Part 1 and equivalent items in the separate account statement or statements.~~

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with the methods set forth in IC 27-1-12-10, the company shall establish such additional reserve.

~~(3) For years ending prior to December 31, 1999, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:~~

~~(A) December 31, 1998, the additional reserve divided by three (3).~~

~~(B) December 31, 1997, two (2) times the additional reserve divided by three (3).~~

~~(4) (3) Any additional reserve established under subdivision (2) or (3) and deemed not necessary in any subsequent year may be released. Any amount released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves shall not be deemed an adoption of a lower standard of valuation.~~

*(Department of Insurance; 760 IAC 1-57-5; filed May 16, 1997, 9:30 a.m.: 20 IR 2779)*

SECTION 6. 760 IAC 1-57-6 IS AMENDED TO READ AS FOLLOWS:

### 760 IAC 1-57-6 Required opinions

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10.1

Sec. 6. ~~(a)~~ In accordance with IC 27-1-12-10.1, every company doing business in this state shall annually ~~submit the opinion of an appointed actuary in accordance with this rule. The type of opinion submitted shall be determined by this section.~~

~~(b) A company shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:~~

~~(1) Category A: any company whose admitted assets do not exceed twenty million dollars (\$20,000,000).~~

~~(2) Category B: any company whose admitted assets exceed twenty million dollars (\$20,000,000) but do not exceed one hundred million dollars (\$100,000,000).~~

~~(3) Category C: any company whose admitted assets exceed one hundred million dollars (\$100,000,000) but do not exceed five hundred million dollars (\$500,000,000).~~

~~(4) Category D: any company whose admitted assets exceed five hundred million dollars (\$500,000,000).~~

~~(c) The following are the exemption eligibility tests for purposes of this rule:~~

~~(1) Any Category A company that, for any year beginning with the year during which this rule becomes effective, meets the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with section 8 of this rule for the year in which these criteria are met. The following ratios shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:~~

~~(A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to one-tenth (0.10):~~

~~(B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than three-tenths (0.30):~~

~~(C) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than five-tenths (0.50):~~

~~(D) The examiner team for the NAIC has not:~~

- (i) designated the company as a:
  - (AA) first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
  - (BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
- (ii) if the company has been so designated, the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(2) Any Category B company that, for any year beginning with the year during which this rule becomes effective, meets the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with section 8 of this rule for the year in which the criteria are met. The following ratios shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:

- (A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to seven-hundredths (0.07).
- (B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than four-tenths (0.40).
- (C) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than five-tenths (0.50).
- (D) The examiner team for the NAIC has not:

- (i) designated the company as a:
  - (AA) first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
  - (BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
- (ii) if the company has been so designated, the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(3) Any Category A company that meets the criteria in subdivision (1) or any Category B company that meets the criteria in subdivision (2) is exempted from the requirement to submit a statement of actuarial opinion in accordance with section 8 of this rule unless the commissioner notifies the company that the exemption is not to be taken.

(4) Any Category A or Category B company that is notified by the commissioner that the exemption is not to be taken shall be required to submit a statement of actuarial opinion in accordance with section 8 of this rule for the year for which it is not exempt.

(5) Any Category C company that fails to meet the criteria in clauses (A) through (C) for any year shall submit a statement of actuarial opinion in accordance with section 8 of this rule for that year. The ratios in clauses (A) through (C) shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

- (A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to five-hundredths (0.05).
- (B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than five-tenths (0.50).
- (C) The ratio of the book value of the noninvestment grade bonds to the sum of the capital and surplus is less than five-tenths (0.50).
- (D) The examiner team for the NAIC has not:

- (i) designated the company as a:
  - (AA) first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
  - (BB) second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or
- (ii) if the company has been so designated, the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

Any Category C company that has submitted an opinion in accordance with section 8 of this rule and thereafter meets criteria in clauses (A) through (C) each year shall not be required to submit a statement of actuarial opinion in accordance with section 8 of this rule more frequently than every third year.

(6) Any company that is not required by this section to submit a statement of actuarial opinion in accordance with section 8 of this rule for any year shall submit a statement of actuarial opinion in accordance with section 7 of this rule for that year unless the commissioner, pursuant to section 3(d) of this rule, requires a statement of actuarial opinion in accordance with section 8 of this rule.

(d) Every Category D company shall submit a statement of actuarial opinion in accordance with section 8 of this rule for each year beginning with the year in which this rule becomes effective. (*Department of Insurance; 760 IAC 1-57-6; filed May 16, 1997, 9:30 a.m.: 20 IR 2780*)

SECTION 7. 760 IAC 1-57-8 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-8 Statement of actuarial opinion based on an asset adequacy analysis**

Authority: IC 27-1-12-10.1  
 Affected: IC 27-1-12-10.1

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Sec. 8. (a) ~~A~~ **The** statement of actuarial opinion based on an asset adequacy analysis **required by IC 27-1-12-10.1** shall consist of the following:

- (1) An opening paragraph.
- (2) A scope paragraph.
- (3) A reliance paragraph.
- (4) An opinion paragraph.
- (5) One (1) or more additional paragraphs will be needed in individual company cases as follows:
  - (A) If the appointed actuary considers it necessary to state a qualification of his or her opinion.
  - (B) If the appointed actuary must disclose the method or aggregation for reserves of different products or lines of business for asset adequacy analysis.
  - (C) If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR), or other mandatory or voluntary statement of reserves for asset adequacy analysis.
  - (D) If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion.
  - (E) If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.
  - (F) If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

(b) A statement of actuarial opinion issued in accordance with this section must contain all pertinent aspects of the language provided in this section. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses his or her professional judgment. The following language is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this section:

(1) The opening paragraph shall include an identification of the appointed actuary and a description of the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. The opening paragraph of the actuarial opinion shall read as follows:

(A) For a company actuary, "I, [name], am [title] of [company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said company to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(B) For a consulting actuary, "I, [name and title of actuary], am a member of the American Academy of Actuaries and am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph must identify the subjects on which an opinion is to be expressed and describe the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, and identify the reserves and related actuarial items covered by the opinion that have not been so analyzed. The scope paragraph shall include a statement such as, "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, [ ]. The following tabulation contains those reserves and related actuarial items which have been subjected to asset adequacy analysis:

Asset Adequacy Tested Amounts Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a)(2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
<b>Exhibit 8 Aggregate Reserves for Life Policies and Contracts</b>					
A. Life Insurance					
B. Annuities					
C. Supplementary Contracts Involving Life Contingencies					
D. Accidental Death Benefit					
E. Disability-Active					
F. Disability-Disabled					
G. Miscellaneous					

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Total (Exhibit 8; Item 1; (Page 3; __, Line __)					
<b>Exhibit 9 Aggregate Reserves for Accident and Health Contracts</b>					
A. Active Life Reserve					
B. Claim Reserve					
Total (Exhibit 9; Item 2; (Page 3; __, Line __)					
<b>Exhibit 10 Deposit Type Contracts</b>					
1. Premiums and Other Deposit Funds					
1.1. Policyholder Premiums (Page 3; __, Line 10.1) __)					
1.2. Guaranteed Interest Contracts (Page 3; __, Line 10.2) __)					
1.3. Other Contract Deposit Funds (Page 3 __, Line 10.3 __)					
2. Supplementary Contracts Not Involving Life Contingencies (Page 3; __, Line 3) __)					
3. Dividend and Coupon Accumulations (Page 3; __, Line 5) __)					
Total Exhibit 10					
<b>Exhibit 11; Policy and Contract Claims for Life and Accident and Health Policies and Contracts, Part 1</b>					
1. Life (Page 3; __, Line 4.1) __)					
2. Health (Page 3; __, Line 4.2) __)					
Total Exhibit 11; Part 1 (Page __, Line __)					
Separate Accounts (Page 3; __, Line 27) __)					
<b>TOTAL RESERVES</b>					

IMR (Page __ Line __)	
AVR (Page __ Line __)	(c)

Notes:

- (a) The additional actuarial reserves are the reserves established under section 5(e)(2) or 5(e)(3) of this rule.
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in section 5(d) of this rule, by means of symbols that should be defined in footnotes to the table.
- (c) Allocated amount.

(3) The reliance paragraph shall describe those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures, or assumptions, for example, anticipated cash flows according to economic scenarios. The reliance paragraph shall include the following:

(A) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a the statement: such as either of the following:

(i) "I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and; or "certain critical aspects of the analysis performed in conjunction with forming my opinion" as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

(ii) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form prescribed by subsection (e).

(B) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include the statement, "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

(C) If the appointed actuary has not examined the underlying records, but has relied upon data (for example, listings and summaries of policies in force and/or asset records) prepared by the company or a third party, the reliance paragraph shall include a sentence such as either of the following: statement,

(i) "In forming my opinion on [specify reserves] I have relied upon listings and summaries [of policies and contracts; of asset records] data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I

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evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included such review of the actuarial assumptions and actuarial methods used and such tests of the actuarial calculations as I considered necessary."

(ii) "I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form prescribed by subsection (e).

(4) The opinion paragraph shall express the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities. The opinion paragraph shall include a statement, such as, "In my opinion the reserves and related actuarial values concerning the statement items identified above:

(A) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(B) are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(C) meet the requirements of Indiana [state of domicile] insurance law and regulations and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(D) are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year end (with any exceptions noted below); or

(E) include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items, including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as Promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion. This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material

changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow the assumptions used in the analysis.

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Signature of Appointed Actuary

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Address of Appointed Actuary

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Telephone Number of Appointed Actuary".

(c) The adoption for new issues or new claims or other new liabilities of an actuarial assumption, which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities, is not a change in actuarial assumptions within the meaning of this section.

(d) If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason or reasons for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(e) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion a statement similar to either of the following by a company officer or the accounting firm who prepared such underlying data:

(1) "I [name of officer], [title], of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [ ], prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

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Signature of the Officer of the Company or Accounting Firm

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Address of the Officer of the Company or Accounting Firm

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Telephone Number of the Officer of the Company or Accounting Firm".

(2) "I, [name of officer], [title] of [name and address of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset oriented aspects of the opinion were

prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Signature of the Officer of the Company, the Accounting Firm, or the Security Analyst

\_\_\_\_\_  
Address of the Officer of the Company, the Accounting Firm, or the Security Analyst

\_\_\_\_\_  
Telephone Number of the Officer of the Company, the Accounting Firm, or the Security Analyst”.

(f) The commissioner may accept the valuation of a foreign insurer when that valuation meets the requirement applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of subsection (b)(4)(C), the commissioner may make one (1) or more of the following additional approaches available to the opining actuary:

(1) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile”. If the commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

(2) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company’s request to file an opinion based on the laws of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met”. If the commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

(3) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state”, including the following:

(A) If the commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in clause (B)) for which the required comparison shall be provided will be published. If a company

chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

(B) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(C) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

(D) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(E) The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

Notwithstanding this subsection, the commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company’s expense to prepare and file the opinion. (*Department of Insurance; 760 IAC 1-57-8; filed May 16, 1997, 9:30 a.m.: 20 IR 2783*)

SECTION 8. 760 IAC 1-57-9 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-9 Description of actuarial memorandum including an asset adequacy analysis**

Authority: IC 27-1-12-10.1  
Affected: IC 27-1-3.1; IC 27-1-12-10

Sec. 9. (a) In accordance with IC 27-1-12-10.1, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under an opinion issued pursuant to section 8 of this

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rule. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of section 5(b) of this rule, with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(d) The reviewing actuary shall have the same status as an examiner under IC 27-1-3.1 for purposes of obtaining data from the company. The work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to IC 27-1-12-10 and IC 27-1-12-10.1. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer under this rule for the current year or any one (1) of the preceding three (3) years.

**(e) The appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection (g). The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.**

~~(e)~~ (f) When an actuarial opinion under section 8 of this rule is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy analysis referred to in section 5(d) of this rule and any additional standards under this rule. It shall specify the following:

(1) For reserves:

- (A) product descriptions, including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;
- (B) source of liability in force;
- (C) reserve method and basis;
- (D) investment reserves; ~~and~~
- (E) reinsurance arrangements;
- (F) identification of an explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and**
- (G) documentation of assumptions to test reserves for:**
  - (i) lapse rates (both base and excess);**
  - (ii) interest crediting rate strategy;**
  - (iii) mortality;**
  - (iv) policyholder dividend strategy;**
  - (v) competitor or market interest rate;**
  - (vi) annuitization rates;**
  - (vii) commissions and expenses; and**
  - (viii) morbidity.**

**The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.**

(2) For assets:

- (A) portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;
- (B) investment and disinvestment assumptions;
- (C) source of asset data; ~~and~~
- (D) asset valuation bases; ~~and~~
- (E) documentation of assumptions made for the following:**
  - (i) default costs;**
  - (ii) bond call function;**
  - (iii) mortgage prepayment function;**
  - (iv) determining market value for assets sold due to disinvestment strategy; and**
  - (v) determining yield on assets acquired through the investment strategy.**

**The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.**

(3) Analysis basis:

- (A) methodology;
- (B) rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
- (C) rationale for degree of rigor in analyzing different blocks of business;
- (D) criteria for determining asset adequacy; and
- (E) effect whether the impact of federal income taxes was considered and the method of treating reinsurance and other relevant factors in the asset adequacy analysis.**

**(4) Summary of material changes in methods, procedures,**

or assumptions from prior year's asset adequacy analysis.

(4) (5) Summary of results.

(5) (6) Conclusion.

(f) (g) The memorandum shall include a statement similar to, "Actuarial methods, considerations, and analysis used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

(h) The regulatory asset adequacy issues summary required by subsection (e) shall state the name of the company for which it is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion. The regulatory asset adequacy issues summary shall include the following:

(1) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

(2) The extent to which the appointed actuary uses assumptions in the asset adequacy that are materially different than the assumptions used in the previous asset adequacy analysis.

(3) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion.

(4) Comments on any interim results that may be of significant concern to the appointed actuary.

(5) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.

(6) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including, but not limited to, those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

*(Department of Insurance; 760 IAC 1-57-9; filed May 16, 1997, 9:30 a.m.; 20 IR 2787)*

SECTION 9. 760 IAC 1-57-10 IS AMENDED TO READ AS FOLLOWS:

**760 IAC 1-57-10 Additional considerations for analysis**

Authority: IC 27-1-12-10.1

Affected: IC 27-1-12-10.1

Sec. 10. (a) For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with section 8 of this rule, reserves and assets may be aggregated by either of the following methods:

(1) Aggregate the reserves and related actuarial items and the supporting assets; for different products or lines of business; before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated:

(2) Aggregate the results of asset adequacy analysis of one (1) or more products or lines of business; the reserves for which prove through analysis to be redundant, with the results of one (1) or more products or lines of business; the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

(A) are developed using consistent economic scenarios; or  
(B) are subject to mutually independent risks; that is, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of the method established in subdivision (1) or (2), whichever is applicable, and describe the aggregation in the supporting memorandum.

(b) (a) The appointed actuary shall analyze only those assets held in support of the reserves that are the subject for specific analysis, hereafter called "specified reserves". A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection (c). If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.

(c) (b) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks

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with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for in risk analysis and reserve support.

(c) The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

(d) Interest rate scenarios used in performing the asset adequacy analysis shall be as follows:

(1) For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; however, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:

(A) Level with no deviation.

(B) Uniformly increasing over ten (10) years at one-half percent (0.5%) per year and then level.

(C) Uniformly increasing at one percent (1%) per year over five (5) years and then uniformly decreasing at one percent (1%) per year to the original level at the end of ten (10) years and then level.

(D) An immediate increase of three percent (3%) and then level.

(E) Uniformly decreasing over ten (10) years at one-half percent (0.5%) per year and then level.

(F) Uniformly decreasing at one percent (1%) per year over five (5) years and then uniformly increasing at one percent (1%) per year to the original level at the end of ten (10) years and then level.

(G) An immediate decrease of three percent (3%) and then level.

For these and other scenarios that may be used, projected interest rates for a five (5) year Treasury Note need not be reduced beyond the point where the five (5) year Treasury Note yield would be at fifty percent (50%) of its initial level.

(2) The beginning interest rates may be based on:

(A) interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested; or

(B) an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date.

Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.

(e) The appointed actuary shall retain on file, for at least seven (7) years:

(1) sufficient documentation so that it will be possible to determine the procedures followed;

(2) the analysis performed;

(3) the bases for assumptions; and

(4) the results obtained.

(Department of Insurance; 760 IAC 1-57-10; filed May 16, 1997, 9:30 a.m.: 20 IR 2787)

SECTION 10. 760 IAC 1-57-7 IS REPEALED.

SECTION 11. SECTIONS 1 through 10 of this document take effect December 31, 2003.

### Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 31, 2003 at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on a proposed amendment to 760 IAC 1-57 to adopt the most recent changes by the National Association of Insurance Commissioners to the Actuarial Opinion and Memorandum Model Regulation. Copies are available at the Web site for the Department of Insurance at [www.state.in.us/idoi](http://www.state.in.us/idoi). Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Sally McCarty  
Commissioner  
Department of Insurance

## TITLE 828 STATE BOARD OF DENTISTRY

Proposed Rule  
LSA Document #03-73

### DIGEST

Amends 828 IAC 1-1 concerning the examination for licensure to practice dentistry. Amends 828 IAC 1-2 concerning the examination for licensure to practice dental hygiene. Effective 30 days after filing with the secretary of state.

<b>828 IAC 1-1-3</b>	<b>828 IAC 1-2-3</b>
<b>828 IAC 1-1-6</b>	<b>828 IAC 1-2-6</b>
<b>828 IAC 1-1-7</b>	<b>828 IAC 1-2-7</b>
<b>828 IAC 1-1-12</b>	<b>828 IAC 1-2-12</b>

SECTION 1. 828 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

### 828 IAC 1-1-3 Examinations required for licensure

Authority: IC 25-14-1-13

Affected: IC 25-14-1-3

Sec. 3. (a) In order to obtain an Indiana license to practice dentistry, each candidate must pass a ~~three (3) part~~ an examina-

tion ~~which that~~ includes: ~~the following:~~

- (1) All sections of the national dental board examination.
- (2) A ~~clinical-practical clinical~~ examination. ~~which may include a written section:~~
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) A passing score must be obtained on all sections of the national board dental examination before any candidate may take the ~~clinical-practical clinical~~ or law examinations. (*State Board of Dentistry; PT 1, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 49; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2239*)

SECTION 2. 828 IAC 1-1-6 IS AMENDED TO READ AS FOLLOWS:

**828 IAC 1-1-6 National board examination; dental and dental hygiene law examinations**

**Authority:** IC 25-14-1-13  
**Affected:** IC 25-14-1-13

Sec. 6. (a) A passing score on a national board dental examination, as approved by the board, must be attained by the candidate before the candidate will be permitted to take the ~~clinical-practical clinical~~ portion of the examination and the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the candidate may be licensed. Candidates failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken. (*State Board of Dentistry; PT 1, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1520; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240*)

SECTION 3. 828 IAC 1-1-7 IS AMENDED TO READ AS FOLLOWS:

**828 IAC 1-1-7 Clinical examination; scope; passing score**

**Authority:** IC 25-14-1-13  
**Affected:** IC 25-14-1-3

Sec. 7. The ~~clinical-practical clinical~~ examination shall consist of the following sections (or procedures):

- (1) Oral diagnosis and treatment planning, infection control, and periodontics.
- (2) Operative dentistry.

(3) Prosthetic dentistry.

The procedure for administering this examination will be determined by the board. Each candidate shall be required to have a score of seventy-five (75) or more in each section to pass the ~~clinical-practical clinical~~ examination. (*State Board of Dentistry; PT 1, Rule 7; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 192; filed Oct 12, 1993, 5:00 p.m.: 17 IR 400; filed Sep 11, 2000, 2:23 p.m.: 24 IR 377; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896*)

SECTION 4. 828 IAC 1-1-12 IS AMENDED TO READ AS FOLLOWS:

**828 IAC 1-1-12 Failure; reexamination**

**Authority:** IC 25-14-1-13  
**Affected:** IC 25-14-1-3

Sec. 12. (a) If the candidate fails in securing a passing score in only one (1) section of the ~~clinical-practical clinical~~ examination, the candidate will be required to retake that section only, provided that the candidate ~~return returns~~ for one (1) of the two (2) next succeeding examinations. If the candidate does not take and pass the failed section on one (1) of the next two (2) available examination dates, a new application must be filed and all sections of the ~~clinical-practical clinical~~ examination must be retaken.

(b) If the candidate fails in two (2) or more parts of the ~~clinical-practical clinical~~ examination, the candidate must take an entire new ~~clinical-practical clinical~~ examination.

(c) If the candidate fails the same section of the ~~clinical-practical clinical~~ examination three (3) times, the entire ~~clinical-practical clinical~~ examination must be retaken. (*State Board of Dentistry; PT 1, Rule 12; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 50; filed May 16, 1977, 10:10 a.m.: Rules and Regs. 1978, p. 193; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1726; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2240*)

SECTION 5. 828 IAC 1-2-3 IS AMENDED TO READ AS FOLLOWS:

**828 IAC 1-2-3 Examinations required for licensure**

**Authority:** IC 25-13-1-5  
**Affected:** IC 25-13-1-4; IC 25-13-1-7

Sec. 3. (a) In order to obtain an Indiana license to practice dental hygiene, each candidate must pass a ~~three (3) part an~~ examination ~~which that~~ includes: ~~the following:~~

- (1) All sections of the national dental hygiene board examination.
- (2) A ~~clinical-practical clinical~~ examination. ~~which may include a written portion:~~
- (3) A written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

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(b) A passing score must be obtained on all sections of the national board dental hygiene examination before any candidate may take the ~~clinical-practical clinical~~ or law examinations. (State Board of Dentistry; PT 2, Rule 3; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244)

SECTION 6. 828 IAC 1-2-6 IS AMENDED TO READ AS FOLLOWS:

### 828 IAC 1-2-6 National board examination; dental and dental hygiene law examination

Authority: IC 25-13-1-5

Affected: IC 25-13-1-4; IC 25-13-1-7

Sec. 6. (a) A passing score on a national board dental hygiene examination, as approved by the board, must be attained by the candidate before the candidate will be permitted to take the ~~clinical-practical clinical~~ portion of the examination and the written examination covering Indiana law relating to the practice of dentistry and dental hygiene.

(b) Passage of the Indiana dental and dental hygiene law examination with a score of at least seventy-five (75) is mandatory before the candidate may be licensed. Candidates failing the law examination may retake the law examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the law examination was last taken.

(c) Candidates failing the written clinical practice examination ~~only~~ may retake the written clinical practice examination at a time, date, and place to be set by the board not sooner than thirty (30) days from the time the ~~clinical-practical examination~~ was last taken. (State Board of Dentistry; PT 2, Rule 6; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Apr 12, 1984, 8:34 a.m.: 7 IR 1521; filed Nov 7, 1986, 9:00 a.m.: 10 IR 431; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1014; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244)

SECTION 7. 828 IAC 1-2-7 IS AMENDED TO READ AS FOLLOWS:

### 828 IAC 1-2-7 Clinical examination; two sections; required score

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-7

Sec. 7. (a) The ~~clinical-practical clinical~~ examination shall consist of the following sections:

- (1) Dental prophylaxis, periodontal scaling, and root planing.
- (2) Clinical practice of dental hygiene. ~~and radiology.~~

(b) The procedures comprising the sections under subsection (a) and the administration of this examination will be determined by the board. Each candidate shall be required to have a score of seventy-five (75) or more in each section to pass the

~~clinical-practical clinical~~ examination. (State Board of Dentistry; PT 2, Rule 7; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 52; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Apr 25, 1983, 8:52 a.m.: 6 IR 1086; filed Jan 28, 1992, 5:00 p.m.: 15 IR 1014; filed Sep 11, 2000, 2:23 p.m.: 24 IR 377; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896)

SECTION 8. 828 IAC 1-2-12 IS AMENDED TO READ AS FOLLOWS:

### 828 IAC 1-2-12 Failure; reexamination

Authority: IC 25-13-1-5; IC 25-14-1-13

Affected: IC 25-13-1-4; IC 25-13-1-7; IC 25-14-1-1; IC 25-14-1-3

Sec. 12. (a) If the candidate fails in securing a passing score in ~~only one (1) section of on~~ the ~~clinical-practical clinical~~ examination, the candidate will be required to retake that section ~~only~~; provided that the candidate ~~return returns~~ for one (1) of the two (2) next succeeding examinations. If the candidate does not take and pass the failed section on one (1) of the next two (2) available examination dates, a new application must be filed. ~~and all sections of the clinical-practical examination must be retaken.~~

(b) ~~If the candidate fails in two (2) or more parts of the clinical-practical examination, the candidate must take an entire new clinical-practical examination.~~

(c) ~~If the candidate fails the same section of the clinical-practical examination three (3) times, the entire clinical-practical examination must be retaken.~~ (State Board of Dentistry; PT 2, Rule 12; filed Aug 10, 1973, 11:00 a.m.: Rules and Regs. 1974, p. 53; filed Nov 7, 1980, 12:45 p.m.: 3 IR 2190; filed Apr 25, 1983, 8:52 a.m.: 6 IR 1086; filed Apr 19, 1991, 3:00 p.m.: 14 IR 1727; readopted filed Apr 11, 2001, 3:21 p.m.: 24 IR 2896; filed Feb 28, 2002, 3:17 p.m.: 25 IR 2244)

### Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on August 1, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Health Professions Bureau Conference Room W064, Indianapolis, Indiana the State Board of Dentistry will hold a public hearing on proposed amendments concerning the examination for licensure to practice dentistry and proposed amendments concerning the examination for licensure to practice dental hygiene. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes  
Executive Director  
Health Professions Bureau

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

Proposed Rule
LSA Document #02-270

DIGEST

Amends 839 IAC 1-3-2 concerning licensure by examination for social workers and clinical social workers. Amends 839 IAC 1-4-5 concerning supervision for marriage and family therapist applicants. Amends 839 IAC 1-5-1 concerning educational requirements for mental health counselors. Adds 839 IAC 1-5-1.5 concerning experience requirements for mental health counselors. NOTE: Under IC 4-22-2-40, LSA Document #02-270, printed at 26 IR 870, was recalled by the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board. This document was revised and readopted. Effective 30 days after filing with the secretary of state.

839 IAC 1-3-2 839 IAC 1-5-1
839 IAC 1-4-5 839 IAC 1-5-1.5

SECTION 1. 839 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-3-2 Licensure by examination for social workers and clinical social workers

Authority: IC 25-23.6-2-8
Affected: IC 25-22.5; IC 25-23.6-5-1; IC 25-23.6-5-3.5; IC 25-33

Sec. 2. (a) An applicant for licensure as a social worker or clinical social worker shall pass an examination required by the board.

(b) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, "experience" means full-time paid experience of at least one thousand five hundred (1,500) hours per year. Part-time experience will be considered if the applicant can verify a total of four thousand five hundred (4,500) hours, three thousand (3,000) hours of which must take place after receiving the graduate degree.

(c) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, supervision must be face-to-face contact between the supervisor and supervisee for the purpose of assisting the supervisee in the process of learning the skills of social work or clinical social work practice for a minimum of four (4) hours per month.

(d) As used in IC 25-23.6-5-1, "equivalent supervisor" means a psychologist licensed under IC 25-33 or a physician licensed under IC 25-22.5 who has training in psychiatric medicine.

(e) As used in IC 25-23.6-5-3.5, "equivalent supervisor" means a psychologist licensed under IC 25-33 or a physician licensed under IC 25-22.5 who has training in psychiatric medicine; a marriage and family therapist licensed under IC 25-

23-6; or a mental health counselor licensed under IC 25-23-6.

(f) (d) Experience, as that term is used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, shall be earned as an employee in one (1) of the following settings:

- (1) Social service agencies.
(2) Schools.
(3) Institutions of higher education.
(4) Hospitals.
(5) Private practice.
(6) Mental health centers.
(7) Correctional institutions.
(8) Home health agencies.
(9) Long term health care facilities.
(10) Employee assistance programs.
(11) Occupational social services.
(12) Military facilities.

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-2; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2457; filed Nov 4, 1992, 5:00 p.m.: 16 IR 871; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505, eff Jul 1, 1999)

SECTION 2. 839 IAC 1-4-5 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-4-5 Supervision for marriage and family therapist licensure applicants

Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8-2.5; IC 25-23.6-8-2.7

Sec. 5. (a) As used in IC 25-23.6-8-2.5, "qualified supervisor" and; as used in IC 25-23.6-8-2.7, "equivalent supervisor" means an American Association for Marriage and Family Therapy approved supervisor; an American Association for Marriage and Family Therapy approved supervisor in training; or a supervisor who has demonstrated to the marriage and family therapy section of the board; possession of a master's degree or higher in the mental health field; training and supervision in marriage and family therapy which focused on family systems; and completion of at least thirty (30) clock hours in marriage and family therapy supervision training; any of the following:

- (1) An American Association for Marriage and Family Therapy approved supervisor.
(2) An American Association for Marriage and Family Therapy supervisor candidate.
(3) A supervisor who has demonstrated to the marriage and family therapy section of the board, possession of a master's degree or higher in the mental health field, training and supervision in marriage and family therapy that focused on family systems, and completion of at least thirty (30) clock hours in marriage and family therapy supervision training.

(b) As used in IC 25-23.6-8-2.7, "equivalent supervisor"

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means an individual who is licensed in a mental health field or, if the supervision was provided in a state where no regulation exists, by a mental health professional of equivalent status, and is any of the following:

- (1) An American Association for Marriage and Family Therapy approved supervisor.
- (2) An American Association for Marriage and Family Therapy supervisor candidate.
- (3) A supervisor who:
  - (A) has possession of a master's degree or higher in a mental health field;
  - (B) has five (5) years of post-master's professional practice experience; and
  - (C) is supervising within their scope of experience and training.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-4-5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507, eff Jul 1, 1999)*

SECTION 3. 839 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

### 839 IAC 1-5-1 Educational requirements for mental health counselors

Authority: IC 25-23.6-2-8

Affected: IC 25-23.6-8.5-1; IC 25-23.6-8.5-2; IC 25-23.6-8.5-3

Sec. 1. (a) As used in IC 25-23.6-8.5-1, "master's degree in an area related to mental health counseling" means a degree earned in one (1) of the following programs:

- (1) Clinical social work.
- (2) Psychology.
- (3) Human services.
- (4) Human development.
- (5) Family relations.
- (6) Counseling.
- (7) Programs accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or the Council on Rehabilitation Education (CORE).

(b) An applicant for licensure as a mental health counselor with a graduate degree not listed in subsection (a), or an applicant asserting that his or her program is equivalent to a program in counseling whose content areas are listed in IC 25-23.6-8.5-3, must provide the board with the following information:

- (1) Evidence that their degree program and any additional course work are equivalent to the criteria for a graduate degree in counseling as set forth in this section.
- (2) An official college transcript.
- (3) Appropriate certifications or affidavits from university officials.
- (4) Any additional supporting documentation as requested by the board.

(c) As used in IC 25-23.6-8.5-2, "regional accrediting body" means a college or university that was accredited prior to or

within two (2) years of the time of the applicant's graduation by one (1) of the following:

- (1) New England Association of Schools and Colleges.
- (2) Middle States Association of Colleges and Schools.
- (3) North Central Association of Colleges and Schools.
- (4) Northwest Association of Schools and Colleges.
- (5) Southern Association of Schools and Colleges.
- (6) Western Association of Schools and Colleges.

(d) An applicant for licensure as a mental health counselor under IC 25-23.6-8.5 must show successful completion of a degree curriculum that shall encompass a minimum of forty-eight (48) semester hours or seventy-two (72) quarter hours of graduate study for the master's degree or a minimum of ninety-six (96) semester hours or one hundred forty-four (144) quarter hours of graduate study for the doctoral degree. If the course titles as stated on the transcript do not clearly reflect the course work content areas as listed in IC 25-23.6-8.5-3, the applicant must document the course or combination of courses in which the material was covered. Further, the applicant for licensure shall document a minimum of sixty (60) **semester hours or ninety (90) quarter hours** of graduate credit in mental health counseling or a related field. Only graduate level courses are acceptable for establishing equivalency. The board will not accept course work counted or credited toward an undergraduate degree.

(e) The following criteria shall be used to identify a master's or doctoral program in counseling or an area related to mental health counseling:

- (1) The program, wherever it may be housed, shall be clearly identified as a counseling program in pertinent catalogs and brochures and shall specify the program's intent to educate and train counselors.
- (2) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.
- (3) The program shall have an identifiable mental health professional responsible for the program.
- (4) The program shall have an integrated, organized sequence of study that follows the CACREP standards.
- (5) The program shall have an identifiable body of students who are matriculated in that program for a degree.
- (6) The program shall include a supervised practicum and internship.
- (7) The degree program may or may not include an advanced internship. However, the advanced internship must be conducted in a setting focused on mental health counseling and/or mental health services, under the auspices of an approved graduate counseling program.

(f) As used in IC 25-23.6-8.5-3, "practicum" means a distinctly defined supervised curricular experience intended to enable the student to develop basic counseling skills and to integrate professional knowledge and skills appropriate to the

student's program emphasis. The practicum shall be a minimum of one hundred (100) clock hours and include the following:

- (1) A minimum of forty (40) hours of direct service with clients so that experience can be gained in individual and group interactions; at least one-fourth (¼) of these hours should be in group work.
- (2) A minimum of one (1) hour per week of individual supervision, over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member, using audiotape, videotape, and/or direct observation.
- (3) A minimum of one and one-half (1½) hours per week of group supervision with other students in similar practica over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member.
- (4) An evaluation of the student's performance throughout the practicum, including a formal evaluation at the completion of the practicum.

(g) As used in IC 25-23.6-8.5-3, "internship" means a distinctly defined, supervised curricular experience intended to enable the student to refine and to enhance basic counseling skills, to develop more advanced counseling skills, and to integrate professional knowledge and skills appropriate to the student's initial postgraduation professional placement. A supervised internship of six hundred (600) clock hours, that is begun after successful completion of the student's practicum, includes the following:

- (1) A minimum of two hundred forty (240) hours of direct service with clients appropriate to the program of study.
- (2) A minimum of one (1) hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor.
- (3) A minimum of one and one-half (1½) hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.
- (4) The opportunity for the student to become familiar with a variety of professional activities other than direct service.
- (5) The opportunity for the student to develop audiotapes and/or videotapes of the student's interactions with clients appropriate for use in supervision.
- (6) The opportunity for the student to gain supervised experience in the use of a variety of professional resources, such as:
  - (A) assessment instruments;
  - (B) computers;
  - (C) print and nonprint media;
  - (D) professional literature;
  - (E) research; and
  - (F) information and referral to appropriate providers.
- (7) A formal evaluation of the student's performance during the internship, by a program faculty supervisor, in consultation with the site supervisor.

(h) The practicum and internship experiences listed in this section are tutorial forms of instruction. Individual supervision is supervision rendered to one (1) person at a time, and group supervision is supervision rendered to at least two (2) and not more than twelve (12) individuals at one (1) time.

(i) As used in IC 25-23.6-8.5-3, "advanced internship" means a minimum of three hundred (300) clock hours of supervised experience that must be completed in a setting in which the individual is providing mental health services under the direct supervision of a professional as defined in subsection (†): **(m)**.

(j) The required practicum, internship, and advanced internship experiences listed in this section must have been primarily in the provision of direct counseling services. This includes knowledge, skill, or experience derived from direct observations of, and participation in, the practice of counseling. ~~Academic credit for these must appear on the applicant's official graduate transcript.~~ No course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward these clinical semester hour requirements.

**(k) The required experiences gained through the practicum, internship, and advanced internship may not be taken concurrently and the academic credit must appear on the applicant's official graduate transcript.**

~~(l)~~ **(l)** As used in IC 25-23.6-8.5-3, "one hundred (100) hours of face-to-face supervision" refers to the entire clinical experience requirement of one thousand (1,000) hours. This includes individual and group supervision. The applicant must document that at least one hundred (100) hours were spent face-to-face with a supervisor during the practicum, internship, and advanced internship. The graduate counseling student may work away from the premises of the educational institution but must be enrolled in a counseling practicum, internship, or advanced internship and must conduct counseling under the auspices of that graduate program.

~~(m)~~ **(m)** As used in IC 25-23.6-8.5-3, "supervised practice experience" means experience gained under supervision provided by:

- (1) a counselor educator;
- (2) a licensed ~~and/or certified~~ master's level or doctoral level:
  - (A) mental health counselor;
  - (B) clinical social worker;
  - (C) marriage and family therapist;
  - (D) ~~a~~ physician who has training in psychiatric medicine;
  - (E) psychologist; or
  - (F) clinical nurse specialist in psychiatric or mental health nursing; or
- (3) another state-regulated mental health professional, or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.

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(m) As used in IC 25-23.6-8.5-4, “three thousand (3,000) hours of post-graduate clinical experience” means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master’s degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

(n) As used in IC 25-23.6-8.5-4, “equivalent supervisor” shall be supervision provided by:

- (1) a licensed and/or certified master’s level or doctoral level:
  - (A) clinical social worker;
  - (B) marriage and family therapist;
  - (C) a physician who has training in psychiatric medicine;
  - (D) psychologist; or
  - (E) clinical nurse specialist in psychiatric or mental health nursing; or

(2) another state-regulated mental health professional; or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.  
*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1311)*

SECTION 4. 839 IAC 1-5-1.5 IS ADDED TO READ AS FOLLOWS:

### 839 IAC 1-5-1.5 Experience requirements for mental health counselors

Authority: IC 25-23.6-2-8  
Affected: IC 25-23.6-8.5-4

Sec. 1.5. (a) As used in IC 25-23.6-8.5-4, “three thousand (3,000) hours of postgraduate clinical experience over a two (2) year period” means experience under approved supervision, acquired over no less than twenty-one (21) months and over no more than forty-eight (48) months, any time subsequent to the date certified by the degree-granting institution as that on which all requirements for the master’s degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

(b) As used in IC 25-23.6-8.5-4, “equivalent supervisor” means an individual who is supervising within their scope of experience and training and is any of the following:

- (1) Licensed as a clinical social worker.
- (2) Licensed as a marriage and family therapist.
- (3) Licensed as a physician who has training in psychiatric medicine.
- (4) Licensed as a psychologist.
- (5) Licensed as a clinical nurse specialist in psychiatric or mental health nursing.
- (6) A mental health professional of equivalent status if the

supervision was provided in a state where no regulation exists.

*(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1.5)*

### Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on July 28, 2003 at 9:05 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board will hold a public hearing on proposed amendments concerning licensure by examination for social workers and clinical social workers, supervision for marriage and family therapist applicants, educational requirements for mental health counselors, and experience requirements for mental health counselors. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Lisa R. Hayes  
Executive Director  
Health Professions Bureau

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## TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule  
LSA Document #03-23

### DIGEST

Amends 876 IAC 3-3-3 to require that the 15 hours of required preclicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-3-4 to require that the 15 hours of required preclicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-3-5 to require that the 15 hours of required preclicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Amends 876 IAC 3-4-8 to require that the 15 hours of required preclicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications. Adds 876 IAC 3-5-6.1 to require real estate appraiser continuing education course providers teaching the seven hours of required continuing education in Uniform Standards of Professional Appraisal Practice to provide to each of its

students a current copy of Uniform Standards of Professional Appraisal Practice and to require real estate appraiser continuing education providers teaching the four hours of required continuing education in the statutes and administrative rules governing appraisers to provide to each of its students a current copy of the Indiana appraiser license law booklet. Effective January 1, 2004.

**876 IAC 3-3-3**  
**876 IAC 3-3-4**  
**876 IAC 3-3-5**

**876 IAC 3-4-8**  
**876 IAC 3-5-6.1**

SECTION 1. 876 IAC 3-3-3 IS AMENDED TO READ AS FOLLOWS:

**876 IAC 3-3-3 Educational requirements for Indiana licensed residential appraiser**

**Authority:** IC 25-34.1-3-8  
**Affected:** IC 25-34.1

Sec. 3. (a) This section establishes the educational requirements for an Indiana licensed residential appraiser.

(b) The minimum prerequisite to sit for an Indiana licensed residential appraiser examination is ninety (90) classroom hours of courses with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken and successfully completed before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the ninety (90) classroom hour educational requirements. Applicants shall demonstrate that their education involved coverage of the following topics, with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including gross rent multiplier analysis.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) Minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	15
Small income producing property (two (2) to four (4) residential)	15
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	15
<b>TOTAL</b>	<b>90</b>

**(l) For a course to meet the fifteen (15) hour Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hour USPAP course will meet the requirements under subsection (k) if the course was taken prior to January 1, 2004.**

## Proposed Rules

*(Indiana Real Estate Commission; 876 IAC 3-3-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; filed Dec 8, 1993, 4:00 p.m.: 17 IR 772; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2114; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1758, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

SECTION 2. 876 IAC 3-3-4 IS AMENDED TO READ AS FOLLOWS:

### **876 IAC 3-3-4 Educational requirements for Indiana certified residential appraiser**

**Authority:** IC 25-34.1-3-8

**Affected:** IC 25-34.1

Sec. 4. (a) This section establishes the educational requirements for an Indiana certified residential appraiser.

(b) The minimum prerequisite to sit for the Indiana certified residential appraiser examination is one hundred thirty-five (135) classroom hours of specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant

obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the one hundred thirty-five (135) classroom hour education requirement. Applicants shall demonstrate that their education involved coverage of the following topics with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
  - (A) Gross rent multiplier analysis.
  - (B) Estimation of income and expenses.
  - (C) Operating expense ratios.
  - (D) Direct capitalization.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	30
Basic income capitalization	40
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	20
<b>TOTAL</b>	<b>135</b>

**(l) For a course to meet the fifteen (15) hour Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hour USPAP course will meet the requirements under subsection**

**(k) if the course was taken prior to January 1, 2004.** (*Indiana Real Estate Commission; 876 IAC 3-3-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 739; filed Dec 8, 1993, 4:00 p.m.: 17 IR 773; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2115; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1759, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

SECTION 3. 876 IAC 3-3-5 IS AMENDED TO READ AS FOLLOWS:

**876 IAC 3-3-5 Educational requirements for Indiana certified general appraiser**

**Authority:** IC 25-34.1-3-8

**Affected:** IC 25-34.1

Sec. 5. (a) This section establishes the educational requirements for an Indiana certified general appraiser.

(b) The prerequisite to sit for the Indiana certified general appraiser examination is one hundred eighty (180) classroom hours with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the Indiana board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant

obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the following one hundred eighty (180) classroom hour education requirement:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
  - (A) Gross rent multiplier analysis.
  - (B) Estimation of income and expenses.
  - (C) Operating expense ratios.
  - (D) Direct capitalization.
  - (E) Yield capitalization.
  - (F) Risk analysis.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Basic income capitalization (which consists of the topics contained in subsection (j)(13)(A) through (j)(13)(D))	40
Advanced income property valuation (which consists of the topics contained in subsection (j)(13)(E) and (j)(13)(F))	55
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	40
<b>TOTAL</b>	<b>180</b>

**(l) For a course to meet the fifteen (15) hour Uniform Standards of Professional Appraisal Practice (USPAP) requirement under subsection (k) after December 31, 2003, the instructor must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to have been a state certified residential or certified general real estate appraiser.**

**(m) Notwithstanding subsection (l), the fifteen (15) hour**

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## Proposed Rules

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**USPAP course will meet the requirements under subsection (k) if the course was taken prior to January 1, 2004.** (*Indiana Real Estate Commission; 876 IAC 3-3-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 740; filed Dec 8, 1993, 4:00 p.m.: 17 IR 774; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1760, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

SECTION 4. 876 IAC 3-4-8 IS AMENDED TO READ AS FOLLOWS:

### **876 IAC 3-4-8 Instructors; requirements**

Authority: IC 25-34.1-3-8  
Affected: IC 25-34.1

Sec. 8. (a) Each instructor used by an approved real estate appraiser course provider must possess at least one (1) of the following minimum requirements:

- (1) Has a bachelor's degree with a major or minor in real estate from an accredited college or university.
- (2) Has a bachelor's degree from an accredited college or university and a minimum of two (2) years experience in real estate appraising.
- (3) Has an Indiana real estate appraiser license or certificate and a minimum of five (5) years experience as a real estate appraiser.
- (4) Has two (2) years experience as a qualified instructor or professor in the business, finance, or economics department of an accredited college or university.

(b) Each instructor must be:

- (1) a licensed or certified appraiser in Indiana or another state; or
  - (2) a member of the faculty at an accredited college or university;
- and, if only licensed or certified, may not teach courses beyond the scope of their license.

**(c) In addition to meeting the requirements in subsections (a) and (b), an instructor for the fifteen (15) hour Uniform Standards of Professional Appraisal Practice (USPAP) course required by sections 3(k), 4(k), and 5(k) of this rule must be:**

- (1) an Appraiser Qualification Board certified USPAP instructor; and**
- (2) a state certified residential or certified general real estate appraiser.**

**However, if the course is taught by two (2) or more instructors, only one (1) is required to be a state certified residential or certified general real estate appraiser.** (*Indiana Real Estate Commission; 876 IAC 3-4-8; filed Dec 8, 1993, 4:00 p.m.: 17 IR 778; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

SECTION 5. 876 IAC 3-5-6.1 IS ADDED TO READ AS FOLLOWS:

### **876 IAC 3-5-6.1 Required instructional materials**

Authority: IC 25-34.1-3-8  
Affected: IC 25-34.1

**Sec. 6.1. (a) For the four (4) hours of the statutes and administrative rules concerning appraisers course required by section 1.5(a)(2) of this rule, a real estate appraiser continuing education provider must provide to each of its students a current copy of the Indiana appraiser license law booklet.**

**(b) For the seven (7) hour Uniform Standards of Professional Appraisal Practice (USPAP) course required by section 1.5(a)(1) of this rule, a real estate appraiser continuing education provider must provide to each of its students a current copy of the USPAP and a current copy of the Indiana appraiser license law booklet.** (*Indiana Real Estate Commission; 876 IAC 3-5-6.1*)

SECTION 6. SECTIONS 1 through 5 of this document take effect January 1, 2004.

### **Notice of Public Hearing**

*Under IC 4-22-2-24, notice is hereby given that on July 24, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to revise the educational requirements for Indiana licensed trainee appraisers, Indiana licensed residential appraisers, Indiana certified residential appraisers, and Indiana certified general appraisers to require that the 15 hours of required prelicensing education in Uniform Standards of Professional Appraisal Practice meet the Appraiser Qualification Board requirements for content and instructor qualifications, to require real estate appraiser continuing education course providers teaching the seven hours of required continuing education in Uniform Standard of Professional Appraisal Practice to provide to each of its students a current copy of Uniform Standards of Professional Appraisal Practice, and to require real estate appraiser continuing education course providers teaching the four hours of required continuing education in the statutes and administrative rules governing appraisers to provide to each of its students a current copy of the Indiana appraiser license law booklet. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Gerald H. Quigley  
Executive Director  
Professional Licensing Agency

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**TITLE 880 SPEECH-LANGUAGE PATHOLOGY  
AND AUDIOLOGY BOARD**

**Proposed Rule**  
LSA Document #03-53

DIGEST

Adds 880 IAC 1-2.1 to establish requirements for speech-language aides. Repeals 880 IAC 1-2. Effective 30 days after filing with the secretary of state.

**880 IAC 1-2**  
**880 IAC 1-2.1**

SECTION 1. 880 IAC 1-2.1 IS ADDED TO READ AS FOLLOWS:

**Rule 2.1. Aides**

**880 IAC 1-2.1-1 Definitions**

Authority: IC 25-25.6-2-2  
Affected: IC 25-35.6-1-2

**Sec. 1.** The following definitions apply throughout this rule:

- (1) "Aide" means a person employed as support personnel under the direction and authority of the supervising licensed speech-language pathologist. This rule applies to all support personnel when providing direct client services in the area of speech-language pathology intervention.
- (2) "Board" means the speech-language pathology and audiology board.
- (3) "Bureau" means the health professions bureau.
- (4) "Direct supervision" of an SLP aide I and an SLP aide II means on-site, in-view observation and guidance by the supervising speech-language pathologist while an assigned therapeutic activity is being performed.
- (5) "SLP aide I" means a speech-language pathology aide I.
- (6) "SLP aide II" means a speech-language pathology aide II.
- (7) "Supervisor", when referring to a speech-language pathology aide, means a person who holds a current Indiana license as a speech-language pathologist and has been approved by the board to supervise an aide as provided by IC 25-35.6-1-2(g).

*(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-1)*

**880 IAC 1-2.1-2 Educational requirements for SLP aide I**

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

**Sec. 2.** The minimum educational requirement for an SLP aide I shall be a high school degree or equivalent. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-2)*

**880 IAC 1-2.1-3 Educational requirements for SLP aide II**

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

**Sec. 3. (a)** The minimum educational requirement for an SLP aide II is an associate degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.

**(b)** As used in this section, "equivalent" means having completed the following:

(1) A minimum of a sixty (60) semester credit hours in a program of study that includes general education and the specific knowledge and skills for a speech-language pathology assistant.

(2) A minimum of twenty-four (24) credit hours of the sixty (60) semester hours required must be completed in general education. The general education curriculum shall include, but is not limited to, the following:

- (A) Oral and written communication.
- (B) Mathematics.
- (C) Computer applications.
- (D) Social sciences.
- (E) Natural sciences.

(3) A minimum of twenty-four (24) credit hours of the sixty (60) semester credit hours required must be completed in technical content areas. Technical content course work provides students with knowledge and skills to assume the job responsibilities and core technical skills for the speech-language pathology assistant and must include the following:

- (A) Instruction about normal processes of communication.
- (B) Instruction targeting the practices and methods of service delivery, which are specific to speech-language pathology assistants.
- (C) Instruction regarding the treatment of communication disorders.
- (D) Instruction targeting the following workplace behavior and skills:

- (i) Working with clients or patients in a supportive manner.
- (ii) Following supervisor's instructions.
- (iii) Maintaining confidentiality.
- (iv) Communicating with oral and written forms.
- (v) Following established health and safety precautions.

(E) Clinical observation.

(F) A minimum of one hundred (100) clock hours of supervised field experience that provides the applicant with appropriate experience for learning speech-language pathology assistant-specific job responsibilities and speech-language pathology assistant-specific workplace behaviors of the speech-language pathology assistant.

## Proposed Rules

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-3)

### 880 IAC 1-2.1-4 Application for registration

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 4. (a) The application for approval of an SLP aide I or SLP aide II must be made on a form provided by the bureau and submitted to the board by the supervisor, under whose direct supervision the SLP aide I or SLP aide II will work, with all documentation as requested.

(b) The application must contain the following information:

- (1) The supervisor's name, address, phone number, and current Indiana license number.
- (2) The name and location of where services will be performed.
- (3) A detailed description of the responsibilities assigned to the SLP aide I or SLP aide II.
- (4) A certified statement from the supervisor that the SLP aide I and SLP aide II will be supervised as required by IC 25-35.6-1-2 and this rule.
- (5) A certified statement from the SLP aide I or SLP aide II that he or she may not perform any activity as specified in section 7 of this rule.
- (6) A certified statement that the SLP aide I or SLP aide II may perform the tasks as specified in section 8 of this rule if delegated by the supervisor.
- (7) An application fee as specified in section 5 of this rule.
- (8) Official transcripts from an educational institution as follows:
  - (A) SLP aide I: Proof of a high school degree or equivalent.
  - (B) SLP aide II: Official transcript from an educational institution recognized by the board, certifying that the applicant possesses an associate's degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.
- (9) Any other information as required by the board.

(c) When an application has been approved by the board, a certificate of registration will be issued by the bureau.

(d) An SLP aide I and SLP aide II may not begin work before his or her application has been approved by the board. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-4*)

### 880 IAC 1-2.1-5 Report change of information

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 5. The supervisor must report any change in activities or supervision at the time the change occurs by submitting a new application and fee as specified in section 4 of

this rule within fourteen (14) days. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-5*)

### 880 IAC 1-2.1-6 Renewal of registration

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 6. (a) A registration issued under section 2 of this rule expires on December 31 of each year. A supervisor must renew the registration by submitting a renewal form provided by the bureau and a fee as specified in 880 IAC 1-1-5.

(b) In order to avoid any interruption of work activity, a registration must be renewed prior to December 31 of each year.

(c) Information submitted with the renewal form shall include the following:

- (1) The nature and extent of the functions performed by the aide during the preceding year.
- (2) The nature and extent of the training completed by the aide during the preceding year.
- (3) Any other information required by the board.

(d) The supervisor must report any change in information required by subsection (a) to the board at the time the change occurs by submitting a new application and fee as specified in 880 IAC 1-1-5.

(e) An SLP aide I and SLP aide II may not continue working after his or her registration has expired. Any such continuation will constitute a violation of this section.

(f) If a supervisor does not renew the SLP aide I or SLP aide II registration on or before December 31, the registration becomes invalid. The supervisor must submit a new application and fee as specified in section 4 of this rule. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-6*)

### 880 IAC 1-2.1-7 Activities prohibited by the SLP aide I and SLP aide II

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 7. An SLP aide I and/or SLP aide II may not perform any of the following activities:

- (1) Standardized or nonstandardized diagnostic tests, formal or informal evaluations, or interpret test results.
- (2) May not participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervisor or other licensed speech-language pathologist designated by the supervisor.
- (3) May not provide patient/client or family counseling.
- (4) May not write, develop, or modify a patient's or client's individualized treatment plan in any way.

(5) May not assist with a patient or client without following the individualized treatment plans prepared by the supervisor or without access to supervision.

(6) May not sign any formal documents, for example, treatment plans, reimbursement forms, or reports. However, the SLP aide I and/or SLP aide II may sign or initial informal treatment notes for review and cosignature by the supervisor if specifically asked to do so by the supervisor.

(7) May not select patients or clients for services.

(8) May not discharge a patient or client from services.

(9) May not disclose clinical or confidential information either orally or in writing to anyone other than the supervisor.

(10) May not make referrals for additional service outside the scope of the intervention setting.

(11) May not communicate with the patient, client, family, or others regarding any aspect of the patient or client status or service without the specific consent of the supervisor.

(12) May not counsel or consult with the patient, client, family, or others regarding the patient or client status or service.

(13) May not represent himself or herself as a speech-language pathologist.

*(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-7)*

**880 IAC 1-2.1-8 Tasks that may be delegated to the SLP aide I and SLP aide II**

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 8. The following tasks may be delegated to an SLP aide I and/or SLP aide II if the tasks have been planned by the supervisor and the SLP aide I and/or SLP aide II has been provided with adequate training to perform the task competently:

(1) Assist the supervisor with speech-language and hearing screenings (without interpretation).

(2) Follow documented treatment plans or protocols developed by the supervisor.

(3) Document patient or client performance, for example:  
(A) tallying data for the speech-language pathologist to use; and

(B) preparing charts, records, and graphs;  
and report this information to the supervising speech-language pathologists.

(4) Assist the supervisor during assessment of patients or clients.

(5) Assist with informal documentation as directed by the supervisor.

(6) Assist with clerical duties, such as preparing materials and scheduling activities as directed by the supervisor.

(7) Perform checks and maintenance of equipment.

(8) Support the supervisor in research projects, in-service training, and public relations programs.

(9) Assist with departmental operations (scheduling, record keeping, and safety and maintenance of supplies and equipment).

(10) Correct data for quality improvement.

(11) Exhibit compliance with regulations, reimbursement requirements, and SLP aide I and SLP aide II job responsibilities.

*(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-8)*

**880 IAC 1-2.1-9 Supervisors; responsibilities**

Authority: IC 25-35.6-2-2

Affected: IC 25-35.6-1-2

Sec. 9. (a) Prior to utilizing an aide, the supervisor shall carefully delineate the role and tasks of the SLP aide I and/or SLP aide II, including the following:

(1) Specific lines of responsibility and authority.

(2) Assurance that the SLP aide I and/or SLP aide II is responsible only to the supervisor in all patient/client activities. The supervisor must assess individual client needs when deciding the appropriateness of a support personnel service delivery model.

(b) When an aide assists in providing treatment, the supervisor of the SLP aide I and/or SLP aide II shall do the following:

(1) The supervisor of the SLP aide I shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. The supervisor must be physically present within the same building as the SLP aide I whenever direct client care is provided. The supervisor must directly provide a minimum of thirty-three percent (33%) of the patient's or client's treatment weekly.

(2) The supervisor of the SLP aide II shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. Supervision days and times should be alternated to ensure that all individuals receive direct contact with the supervisor at least once every two (2) weeks. At no time should an SLP aide II perform tasks when a supervisor cannot be reached by personal contact, telephone, pager, or other immediate means.

(3) The amount of supervision may be adjusted depending on the competency of the SLP aide I or SLP aide II, the needs of the patients or clients served, and the nature of the assigned tasks; however, the minimum standard must be maintained. The supervisor must determine supervision needs. Indirect supervision activities may include, but are not limited to, record review, phone conferences, or audio/video tape review.

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## Proposed Rules

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- (4) Determine the responsibilities assigned to the SLP aide I and/or SLP Aide II based upon the educational level, training, and experience of the aide.
- (5) Evaluate each patient or client prior to treatment.
- (6) Outline and direct the specific program for the clinical management of each client assigned to the SLP aide I and/or SLP aide II.
- (7) Every five (5) working days, review all data and documentation on clients seen for treatment by the SLP aide I and/or SLP aide II.
- (8) Ensure that, at the termination of services, the case is reviewed by the speech-language pathologists responsible for the client.
- (c) The supervisor shall not permit an SLP aide I and/or SLP aide II to make decisions regarding the diagnosis, management, or future disposition of clients.
- (d) The supervisor must officially designate an SLP aide I and/or SLP aide II, as such, on all clinical records.
- (e) The supervisor must be present when the SLP aide I and/or SLP aide II provides direct client treatment outside the designated practice setting.
- (f) The supervisor may designate a licensed speech-language pathologist to supervise a SLP aide I and/or SLP aide II under his or her supervision during vacation periods or illness, but for no longer than a thirty (30) day period.
- (g) Within ten (10) days after the termination of the supervision of an SLP aide I and SLP aide II, the supervisor shall notify the board, in writing, of the termination and the date of the termination and may designate a licensee to serve as an interim supervisor for a period not to exceed thirty (30) days upon approval of the board. An interim supervisor is not required to pay a fee for the thirty (30) day period.
- (h) A supervisor may not supervise more than three (3) aides at one (1) time.
- (i) A supervisor must be a licensed speech-language pathologist for a minimum of two (2) years prior to registering and supervising an SLP aide I and/or SLP aide II. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-9*)

### 880 IAC 1-2.1-10 SLP Aides previously registered under 880 IAC 1-2

Authority: IC 25-35.6-2-2  
Affected: IC 25-35.6-1-2

Sec. 10. (a) SLP aides previously registered under 880 IAC 1-2, which meet the educational requirements of section 2 of this rule, shall be registered as an SLP aide I without the necessity of filing an additional application under section 4 of this rule.

(b) SLP aides previously registered under 880 IAC 1-2, which meet the educational requirements of section 3 of this rule, shall be registered as an SLP aide II without the necessity of filing an additional application under section 4 of this rule. (*Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-10*)

SECTION 2. 880 IAC 1-2 IS REPEALED.

### Notice of Public Hearing

*Under IC 4-22-2-24, notice is hereby given that on August 5, 2003 at 10:40 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Speech-Language Pathology and Audiology Board will hold a public hearing on proposed rules concerning educational, registration, and renewal requirements for speech-language pathology aides I and II; professional activities of speech-language pathology aides I and II; supervision of speech-language pathology aides I and II; and registration of aides previously registered under 880 IAC 1-2. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W066 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Lisa R. Hayes  
Executive Director  
Health Professions Bureau

**Intent to Readopt Rules**

Office of Attorney General for the State . . . . . 3424

**Proposed Readopted Rules**

Office of Attorney General for the State . . . . . 3425

State Police Department . . . . . 3425

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## Readopted Rules

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### TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

Notice of Intent  
LSA Document #03-168

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

**OVERVIEW:** Rule to be readopted without changes is:

10 IAC 3-1-2 Claims forms available

Questions or comments on the readoption may be directed by mail to Office of the Indiana Attorney General, ATTENTION: Mike Ward, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to [mward@atg.state.in.us](mailto:mward@atg.state.in.us). Statutory authority: IC 34-13-3-6; IC 4-22-2.5-3.

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**TITLE 10 OFFICE OF ATTORNEY GENERAL  
FOR THE STATE**

Proposed Rule  
LSA Document #03-102

**DIGEST**

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

**10 IAC 1.5**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

10 IAC 1.5 UNCLAIMED PROPERTY

***Notice of Public Hearing***

*Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on July 22, 2003 at 11:15 a.m., at the Office of the Attorney General's Conference Room, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana the Unclaimed Property Division, Office of the Attorney General will hold a public hearing to readopt rules.*

*Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:*

*Judy Hudson, Director, Unclaimed Property Division  
Office of the Attorney General  
Indiana Government Center-South, 5th Floor  
302 West Washington Street  
Indianapolis, Indiana 46204.*

*Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Steve Carter  
Attorney General  
Office of Attorney General for the State

**TITLE 240 STATE POLICE DEPARTMENT**

Proposed Rule  
LSA Document #03-98

**DIGEST**

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

**240 IAC 1-4-3**

**240 IAC 1-4-24.1**

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

240 IAC 1-4-3      Applicant standards for appointment  
240 IAC 1-4-24.1      Termination; mandatory retirement at  
60 years of age

***Notice of Public Hearing***

*Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on September 8, 2003 at 9:30 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 335, Indianapolis, Indiana the State Police Department will hold a public hearing to readopt rules.*

*Send written comments to:*

*Anthony Sommer, Staff Attorney  
Indiana State Police  
Indiana Government Center-North  
100 North Senate Avenue, Room 340  
Indianapolis, Indiana 46204.*

*Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 340 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Anthony Sommer  
Staff Attorney  
State Police Department

**60 Day Requirement (IC 4-22-2-19)**

**TITLE 820 STATE BOARD OF COSMETOLOGY  
EXAMINERS**

LSA Document #03-21

March 12, 2003

The Honorable Senator Jerry Denbo, Chairperson  
Administrative Rules Oversight Committee  
c/o Ms. Susan Kennell  
Legislative Services Agency  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789

Re: LSA Document #03-21

Dear Chairman Denbo:

On behalf of the Indiana Professional Licensing Agency, State Board of Cosmetology Examiners ("Board"), I am submitting this memorandum to the Administrative Rules Oversight Committee pursuant to IC 4-22-2-19(c).

Pursuant to IC 25-1-4-3.2, effective July 1, 2001, a board or agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 shall require at least one-half (50%) of all continuing education requirements must be allowed by distance learning methods, except for doctors, nurses, chiropractors, optometrists and dentists. The Board may adopt rules under IC 4-22-2 to implement IC 25-8-15 (continuing education). In accordance with IC 4-22-2-19(c)(2), this letter is to notify you that the Board did not institute the rulemaking process within sixty (60) days of the effective date of this statute. The Board reviewed other states' requirements and procedures for distance learning continuing education as well as established a committee with distance learning continuing education providers to assist in the rulemaking process. The Board is now prepared to propose administrative rules to establish the requirements and procedures for distance learning continuing education educators, providers, and courses.

If you have any further concerns or require additional information, please do not hesitate to contact me at 317-232-5954 or email me at mdavis@pla.state.in.us.

Sincerely,

Medana C. Davis  
Staff Counsel

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**365 Day Notice (IC 4-22-2-25)**

**TITLE 50 DEPARTMENT OF LOCAL  
GOVERNMENT FINANCE**

LSA Document #02-297

June 6, 2003

The Honorable Jerry Denbo, Chair  
Administrative Rules Oversight Committee

**Re: Notice of Delay in Adoption of Rule providing for a uniform and equal assessment by annually adjusting the assessed value of real property during nongeneral assessment years / LSA Document #02-297**

Dear Representative Denbo:

Notice of Delay

This is to notify you that pursuant to IC 4-22-2-25, the Department of Local Government Finance has determined that it may not be able to adopt, and obtain the Governor's approval of, the proposed rule governing standards for determining uniform procedures necessary to review and assess the real property values of real property during nongeneral assessment years, IC 6-1.1-4-4.5 (LSA Document #02-297) within one (1) year of the date of notice of intent to adopt the rule as published under IC 4-22-2-23.

Reasons for Delay

This rule requires the Department to prescribe an annual adjustment by such categories that the DLGF deems necessary. The Department did not feel it would be able to make such a determination till the 2002 reassessment was complete. While the reassessment is still ongoing, HEA 1714 amended the date that the adjustment must be applied. The system now must be used to adjust assessed values beginning with the 2005 assessment. The Department is now in a better position to address this issue given the events of the 2002 reassessment.

The Department must also prescribe procedures regarding computer programs that support the application of such adjustment percentages that are both efficient and effective for the local assessing officials. The Department has started to review equalization studies and now has a better understanding of what certain software systems are capable of.

Expected Adoption Date

The Department of Local Government Finance expects to forward the promulgation of LSA Document #02-297 in the near future. It is anticipated that we will be able to adopt the rule and obtain the Governor's approval, before the end of 2004. Because the stated "expected date" will control the validity of the rule, we present this

notice and state that we now expect to adopt and obtain the Governor's approval of the rules governing annual adjustments of the assessed value of real property beginning 2005 (LSA Doc. #02-297), before December 31, 2004.

Your understanding of these circumstances is greatly appreciated. If you need additional information please do not hesitate to contact me at 232-5895. Thank you.

Sincerely,

Heather A. Scheel  
General Counsel

Copy to:  
Sen. Luke Kenley  
Susan Kennell, Attorney for the Committee  
Chuck Mayfield, Fiscal Analyst for Committee

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**TITLE 760 DEPARTMENT OF INSURANCE**

LSA Document #02-299

June 9, 2003

Chairperson, Administrative Rule Oversight Committee  
c/o George Angelone  
Legislative Services Agency

RE: LSA Document #02-299

Dear Chairperson:

On November 1, 2002, the Department of Insurance published a notice of intent to amend 760 IAC 1-21. The Department held a public hearing on February 28, 2003. On March 14, 2003, Judge Dreyer of Marion Superior Court 10 issued an opinion that impacts the liability of the Patient's Compensation Fund and thus the proposed amendment to the surcharge calculation contained in Rule 21. It is necessary for the actuary to review his previous recommendations in light of this judicial decision.

The Department will be unable to meet the one-year requirement of IC 4-22-2-25. The Department plans to receive the actuary's revised comments by September 1, 2003 and if necessary will publish a revised proposed rule and notice of public hearing by November 1, 2003. A final rule will be adopted by January 1, 2004.

Unless I hear from you to the contrary, the Department will assume that this time period is agreeable to the Committee. If you have any questions I can be reached at 232-0143.

Very truly yours,

Amy E. Strati  
Chief Counsel

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**TITLE 329 SOLID WASTE MANAGEMENT BOARD****CONTINUATION OF SECOND NOTICE OF  
COMMENT PERIOD  
#02-160(SWMB)****DEVELOPMENT OF AMENDMENTS TO RULES IMPLEMENTING INDIANA'S GROUND WATER QUALITY STANDARDS (327 IAC 2-11) IN THE HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed new draft rule language for amendments to rules for hazardous waste management at 329 IAC 3.1-9-2 to amend provisions in the rules for hazardous waste treatment, storage, and disposal facilities to be consistent with new ground water quality standards at 327 IAC 2-11. By this notice, IDEM is soliciting public comment on this new draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3495).

Second Notice of Comment Period: January 1, 2003, Indiana Register (26 IR 1358).

**CITATIONS AFFECTED:** 329 IAC 3.1-9-2.

**AUTHORITY:** IC 13-14-9; IC 13-18-17; IC 13-22-2; P.L.231-2003, SECTION 6.

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

IC 13-18-17-5 required the water pollution control board to adopt rules establishing ground water quality standards to:

- establish minimum compliance levels for ground water quality monitoring at regulated facilities;
- ban the discharge of effluents into potable ground water;
- establish health protection goals for untreated water in water supply wells; and
- establish concentration limits for contaminants in ambient ground water.

The new ground water quality standards at 327 IAC 2-11 were effective on March 5, 2002, and apply to all IDEM programs as required by IC 13-18-17-5.

The office of land quality completed a survey of solid and hazardous waste rules in August 2001 and found that the rules for ground water protection for permitted hazardous waste facilities were not consistent with the new ground water quality standards. This rule would amend 329 IAC 3.1-9-2 to be consistent with the new ground water quality standards.

On January 1, 2003 (26 IR 1358), we published a draft rule to implement the requirements of 327 IAC 2-11. No comments were received on that draft rule. Since publication of the draft rule, we have determined that some changes to the originally proposed draft rule would produce a simpler, more effective rule that would allow department staff and facilities to apply the ground water quality standards more appropriately and consistently to the affected facilities. This notice contains the revised draft rule language.

Because the changes proposed in this draft rule are significant, we are publishing this revised draft rule in its entirety for public review

and comment before presenting the rule to the solid waste management board for preliminary adoption.

**ELEMENTS NOT IMPOSED UNDER FEDERAL LAW (P.L.240-2003)**

As required by IC 13-14-9-4 (as amended by P.L.240-2003), no element of this rule is imposed under federal law. Each element is in addition to the existing federal hazardous waste management program in 40 CFR 261 and 40 CFR 264.

The ground water protection standards in 327 IAC 2-11, imposed under IC 13-18-17-5, include a number of substances that are not listed in the ground water protection requirements in 40 CFR 264, Subpart F. In this draft rule we are proposing to add those additional substances to 329 IAC 3.1-9-2 and make conforming changes, as follows:

- We are proposing to add eighteen (18) contaminants listed in 327 IAC 2-11-6, in addition to the list of four hundred eighty-two (482) constituents in 40 CFR 261, Appendix VIII, that can be specified in the facility permit under 40 CFR 264.93(a) as constituents to which the ground water protection standard in 40 CFR 264.92 applies. These additional constituents are contaminants listed in 327 IAC 2-11-6 that are not listed in Appendix VIII. For each hazardous waste facility that is subject to 40 CFR 264, Subpart F, the department specifies certain hazardous waste constituents that have been detected in ground water underlying the facility and can be reasonably expected to be in or derived from waste contained in the facility. The facility must monitor for these constituents and reduce the concentrations of these constituents in the ground water to a level below the concentration limits set under 40 CFR 264.94. Because each facility's list of constituents is unique to that facility and is determined by the waste disposed of in that facility, these additional contaminants may or may not be added to a facility's permit. Because the existing federal regulation does not include these contaminants, it is inadequate to provide the protection required by 327 IAC 2-11 and IC 13-18-17-5.
- In addition to 40 CFR 264.93(b), we are proposing to allow the department to consider the overall requirements of the ground water quality standards in 327 IAC 2-11 in addition to other factors when deciding to exclude a constituent from a facility permit. Because the existing federal regulation does not provide for consideration of these factors, it is inadequate to provide the protection required by 327 IAC 2-11 and IC 13-18-17-5.
- We are proposing to replace 40 CFR 264.94(a), Table 1, to change the maximum concentration allowed for six (6) constituents to be no less stringent than the numeric criteria in 327 IAC 2-11-6. Because the existing federal regulation sets higher concentrations for these contaminants, it is inadequate to provide the protection required by 327 IAC 2-11 and IC 13-18-17-5.
- In addition to 40 CFR 264.94(b), we are proposing to allow the department to consider the overall requirements of the ground water quality standards in 327 IAC 2-11 in addition to other factors when deciding to exclude a constituent from a facility permit. Because the existing federal regulation does not provide for consideration of these factors, it is inadequate to provide the protection required by 327 IAC 2-11 and IC 13-18-17-5.
- We are proposing to list seventeen (17) contaminants that the department may require a facility to monitor for under 40 CFR 264.99(g), in addition to the two hundred twenty-two (222) constituents currently listed in the ground water monitoring list in 40 CFR 264, Appendix IX. These additional substances are contaminants listed in 327 IAC 2-11-6 that are not already on the ground water monitoring list. The department could require a facility to analyze ground water samples for one (1) or more of these additional

contaminants if we determined it was appropriate based on the waste disposed of at that facility and the facility's history. Because the existing federal regulation does not include these contaminants, it is inadequate to provide the protection required by 327 IAC 2-11 and IC 13-18-17-5.

**AVAILABILITY OF MATERIALS USED TO DEVELOP THE DRAFT RULE**

As required by IC 13-14-9-4 (as amended by P.L.240-2003), the office of land quality relied on the following information to develop this draft rule:

- 40 CFR 260 through 40 CFR 270.
- 327 IAC 2-11.
- IC 13-18-17-5.
- "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", U.S. Environmental Protection Agency Publication SW-846, Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998).
- A variety of information on ground water and drinking water test methods available from the U.S. Environmental Protection Agency at <http://www.epa.gov/OGWDW/methods/>.
- "Comparison of the Ground Water Quality Standard Rules to Office of Land Quality Rules," August 30, 2001, prepared by the office of land quality.
- Discussions with hazardous waste facility permit managers and other department technical staff.

These materials are on file in the Rules, Planning and Outreach Section, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana and are available for public inspection.

The office of water quality relied on additional scientific and technical materials to develop the ground water quality standards in 327 IAC 2-11. These materials are on file in the Regulatory Development Section, Office of Water Quality, 100 North Senate Avenue, Twelfth Floor, Indianapolis, Indiana and are available for public inspection.

**POTENTIAL FISCAL IMPACT**

The fiscal impact of each of these amendments is not known at this time. Existing permits for active and closed facilities have not been reviewed to determine if addition of any of these contaminants to the ground water monitoring and corrective action requirements would be appropriate. In any case, the department would not add a contaminant to a permit or require testing for an additional contaminant unless information available about the facility indicated that action was appropriate. Even if a contaminant is added, it is not clear if that action would impose additional testing costs, or if testing for that contaminant would be included in existing testing procedures. As a result, the economic impacts of these amendments cannot be quantified at this time.

This rule specifically solicits comment on the fiscal impact of each of the amendments proposed in this rule, including, but not limited to:

- (1) which regulated entities would be impacted by each of the amendments; and
- (2) what is the potential economic impact to these entities of each amendment that would affect them.

**EFFECT ON INDUSTRIES LISTED IN PUBLIC LAW 231-2003, SECTION 6**

In accordance with P.L.231-2003, SECTION 6 (HEA 1221), this rule cannot require a person who engages in an industry listed in that section to comply with a standard of conduct that exceeds the standard

of conduct established in the related federal regulation or regulatory policy, until July 1, 2005. Therefore, because the requirements proposed to be adopted in this rule are not imposed under federal law and exceed the standard of care established in the related federal regulation, they will not apply to persons who engage in any of the following industries listed by Standard Industry Classification in P.L.231-2003, SECTION 6, until July 1, 2005:

- 3312: steel works, blast furnaces (including coke ovens), and rolling;
- 3321: gray and ductile iron foundries;
- 3322: malleable iron foundries;
- 3324: steel investment foundries;
- 3325: steel foundries, not elsewhere classified;
- 3365: aluminum foundries;
- 3366: copper foundries;
- 3369: nonferrous foundries, except aluminum and copper.

**PUBLIC PARTICIPATION AND WORKGROUP INFORMATION**

An external workgroup may be established to discuss issues involved in this rulemaking. The workgroup, if established, would be made up of department staff and a cross-section of stakeholders. If you believe a work group would further the purposes of this rule and result in better rulemaking, and you wish to participate in the workgroup, please submit your name, mailing address, telephone number, e-mail address, and the area(s) of interest you wish to represent to:

#02-160 (SWMB) [Ground Water Quality Standards]  
 Marjorie Samuel  
 Rules, Planning and Outreach Section  
 Office of Land Quality  
 Indiana Department of Environmental Management  
 P.O. Box 6015  
 Indianapolis, Indiana 46206-6015.

If too many applications are received to form a functional work group, the department will select a representative group from the applications on file.

The formation of a work group, if it occurs, will be announced on the department's rulemaking Web site: <http://www.in.gov/idem/rules/>.

If a work group is formed and you wish to provide comments to the work group on the rulemaking, attend meetings, or submit suggestions related to the work group process, please contact Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality at (317) 233-1655 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted.

The public is also encouraged to submit comments and questions directly to members of the work group who represent their particular interests in the rulemaking. If a work group is established, a list of work group members and the interests they represent will be provided on request.

**SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from July 1, 2002, through July 31, 2002, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from January 1, 2003, through January 31, 2003, on IDEM's draft rule language. IDEM received no comments in response to the second notice of public comment period.

**REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to: #02-160(SWMB) [Hazardous Waste Ground Water Quality Standards]  
 Marjorie Samuel  
 Rules, Planning and Outreach Section  
 Office of Land Quality  
 Indiana Department of Environmental Management  
 P.O. Box 6015  
 Indianapolis, IN 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana. Comments may be submitted by facsimile at (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 233-1655 or (317) 232-7995.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, hand delivered, or faxed by July 31, 2003.

Additional information regarding this action may be obtained from Steve Mojonier of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana), press zero (0), and ask for extension 3-1655.

**DRAFT RULE**

SECTION 1. 329 IAC 3.1-9-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 3.1-9-2 Exceptions and additions; final permit standards**

Authority: IC 13-14-8; IC 13-18-17; IC 13-22-2-4  
 Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; P.L.231-2003, SECTION 6; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

- (1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.
- (2) In 40 CFR 264.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".
- (3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.
- (4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.
- (5) In addition to the requirements at 40 CFR 264.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five

- (5) working days after receiving the manifest.
- (6) In 40 CFR 264.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "forms provided by the commissioner".
- (7) In 40 CFR 264.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".
- (8) In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:
  - (A) Two (2) paper copies on the most current form prescribed by the department.
  - (B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department.
- (d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner."
- (9) In 40 CFR 264, Subpart F, the term "hazardous constituent" includes the following contaminants:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1
cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Ethylbenzene	100-41-4
Fluoride	16984-48-8
Glyphosate	1071-83-6
Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9
Styrene	100-42-5

(10) In 40 CFR 264.93(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.

(11) Delete 40 CFR 264.94(a)(2), Table 1, and substitute the following:

**Table 1. Maximum Concentration of Constituents for Ground Water Protection**

Constituent	Maximum Concentration (mg/L)
Arsenic	0.05
Barium	1.0
Cadmium	0.005

Chromium	0.05
Lead	0.015
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy 1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.0002
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	0.04
Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> , Technical chlorinated camphene, 67-69 per cent chlorine)	0.003
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.07
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

(12) In 40 CFR 264.94(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.  
 (13) In 40 CFR 264.99(g), in addition to the constituents listed in 40 CFR 264, Appendix IX, the commissioner may require a facility to monitor for the following contaminants:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1
cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Fluoride	16984-48-8
Glyphosate	1071-83-6
Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9

- (14) Delete 40 CFR 264, Subpart H, dealing with financial requirements and substitute 329 IAC 3.1-15.  
 (15) Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J, are under section 3 of this rule.  
 (16) In 40 CFR 264.221(e)(2)(i)(C), delete “permits under RCRA Section 3005(c)” and insert “with final state permits”.  
 (17) Delete 40 CFR 264.301(l).

- (18) Delete 40 CFR 264, Appendix VI.  
 (19) In 40 CFR 264.316(b), delete “(49 CFR Parts 178 and 179)” and substitute “(49 CFR Part 178)”.  
 (20) In 40 CFR 264.316(f), delete “fiber drums” and substitute “nonmetal containers”.  
 (21) The requirements in subdivisions (9) through (13) do not apply to any of the following industries to a greater extent than the standard of conduct established in the related federal regulation or regulatory policy, until July 1, 2005:

Industry	Standard Industry Classification Code
Steel works, blast furnaces (including coke ovens), and rolling	3312
Gray and ductile iron foundries	3321
Malleable iron foundries	3322
Steel investment foundries	3324
Steel foundries, not elsewhere classified	3325
Aluminum foundries	3365
Copper foundries	3366
Nonferrous foundries, except aluminum and copper	3369

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433)

**Notice of Public Hearing**

These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the IC 13-14-9 Notices section of the Indiana Register.

Additional information regarding this action may be obtained from Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue, Indianapolis, Indiana and are open for public inspection.

Bruce Palin  
 Deputy Assistant Commissioner  
 Office of Land Quality

**OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES  
OFFICE OF MEDICAID POLICY AND PLANNING  
PUBLIC NOTICE REGARDING CHANGES IN STATEWIDE METHODS AND STANDARDS  
FOR SETTING PAYMENT RATES FOR PROVIDERS OF AMBULANCE TRANSPORTATION SERVICES**

In accordance with the public notice requirements established at 42 CFR 447.205, the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP), gives notice of changes to the methods and standards governing Medicaid reimbursement methodology for ambulance transportation services.

A supplemental payment may be made to a provider for ambulance transportation services, subject to the availability of funds eligible for federal financial participation. The supplemental payments will be made on the basis of a schedule developed by OMPP in an amount which when combined with other payments under the plan, does not exceed the provider's usual and customary charges.

This payment methodology is expected to result in Medicaid program expenditures (both state and federal dollars) of approximately \$15 million per state fiscal year.

There will be no public hearing.

Copies of the proposed state plan amendment and this public notice will be on file beginning July 1, 2003, and open for public inspection by contacting the Director of the local office of the Division of Family and Children, except in Marion County. The inspection material will be maintained for viewing in Marion County at the Office of Medicaid Policy and Planning, 402 West Washington Street, Room W382, and will be available from 8:30 am to 4:30 pm, Monday through Friday. Written comments from any source regarding these changes should be sent to the Office of Medicaid Policy and Planning, 402 West Washington Street, Room W382, Indianapolis, IN 46204 to the attention of Pat Nolting. Written comments received will also be available for public review.

John Hamilton  
Office of Family and Social Services.

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**INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT****Title:** Review of Sanitary Sewer Construction Permit Applications For Communities with Combined Sewer Overflow Outfalls**Identification Number:** Water – 005 – NRD**Date Originally Effective:** June 7, 2003**Dates Revised:** None**Other Policies Repealed or Amended:** None**Brief Description of Subject Matter:** This document outlines IDEM's procedures for review of sewer construction permit applications for communities with combined sewer overflow outfalls**Citations Affected:** 327 IAC 3-1-1 through 327 IAC 3-6-32.

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document should be used in conjunction with the applicable laws. This document does not replace applicable laws, and if it conflicts with those laws, the laws shall control. This nonrule policy document may be put into effect by IDEM thirty (30) days after presentation to the appropriate board and after it is made available to public inspection and comment, pursuant to IC 13-14-1-11.5. If this nonrule policy is presented to more than one (1) board, it will be effective thirty (30) days after presentation to the last board. IDEM will submit the policy to the Indiana Register for publication. Revisions to this nonrule policy document will follow the same procedure of presentation to the board and publication.

**BACKGROUND/DISCUSSION**

The Water Pollution Control Board (board) received a petition on September 12, 2001, for rulemaking per provisions under IC 13-14-8-5. After five (5) public hearings, the board adopted the hearing officer's report and recommendations; and, at its December 2001 meeting, the board requested IDEM to develop a nonrule policy document under IC 13-14-1-11.5 to outline policies and procedures for processing sewer construction permit applications in communities with combined sewer overflows.

The permitting program for construction of sanitary sewers is regulated under Article 3 of Title 327 of the Indiana Administrative Code (327 IAC 3). That article includes administrative rules for obtaining a construction permit as well as technical standards for the design and installation of sanitary sewers.

The issuance requirements for sanitary sewer construction permits are listed in 327 IAC 3-6-7. These requirements are basically reiterated in 327 IAC 3-6-4, "Certifications", as language that is to be certified by both the design engineer and an authorized representative of the owner of the affected treatment and collection system.

The implementation of the rule, wherever possible, should not create disincentives to implementation of a long-term control plan or other capital projects designed to reduce CSO volumes, first flush discharges, or to provide treatment to previously untreated overflows.

In addition, this nonrule policy document should not create disincentives to urban redevelopment, brownfield revitalization, or provision of sanitary sewer service to unsewered areas. These activities and types of sewer connections represent a net environmental gain in terms of improved water quality, reduced urban sprawl, green space preservation, and reduced air pollution.

The five basic requirements in 327 IAC 3-6-7, with IDEM's interpretation for application in communities with CSOs, are as follows:

1. "The peak daily flow rate, in accordance with section 11 of this rule, generated in the area that will be collected by the project system, will not cause overflowing or bypassing in the collection system from locations other than NPDES authorized discharge points."

IDEM interprets this requirement to mean that the peak daily flow for the new sewer will not result in overflows from any discharge point that is not authorized to discharge in the NPDES permit for the facility serving the sewer system. For combined sewer systems, CSO discharge points listed in an NPDES permit are generally authorized to discharge during wet weather events. A CSO community is required by its NPDES permit (or will be required when the NPDES permit is renewed) to implement a CSO Operational Plan and to develop and implement a Long Term Control Plan (LTCP) for CSO Management. For combined sewer systems, CSO discharge points are not authorized to discharge except during wet weather events as addressed in the CSO Operational Plan and to be further addressed in the Long Term Control Plan. For purposes of implementing the wastewater construction permitting rule, IDEM will review available bypass/overflow incident reports and attempt to determine whether unauthorized discharges are occurring from NPDES discharge points for the affected system. If a community has reported a dry weather overflow from a CSO discharge point on the portion of the collection system affected by the permit application, IDEM will review the data further to determine the action to be taken as described in the review procedure section of this nonrule policy document.

Discharges from Combined Sewer Overflows (CSOs) that are not related to wet weather events are prohibited by the Clean Water Act. CSOs caused by wet weather events are contemplated and allowed within certain ascertained circumstances.

2. "Sufficient capacity exists in the receiving water pollution treatment/control facility to treat the additional daily flow."

IDEM interprets this requirement to mean that there will be sufficient capacity in the receiving water pollution treatment/control facility to treat the proposed additional daily flow and prevent hydraulic or organic overload of the receiving water pollution treatment / control facility.

The water pollution treatment/control facility refers only to the wastewater treatment plant and does not include the sewer system (observe that there are separate definitions for “water pollution treatment/control facility” and “sanitary sewer” in 327 IAC 3-1-2 and the language “water pollution treatment/control facility or sanitary sewer” in 327 IAC 3-2-1).

3. “The receiving water pollution treatment/control facility will remain in compliance with applicable NPDES permit effluent limitations.”

IDEM interprets this requirement to mean that there should be sufficient capacity in the receiving water pollution treatment/control facility to treat the additional daily flow and not cause exceedances of applicable NPDES permit effluent limitations.

4. “The sanitary sewer or collection system that is the subject of the construction permit application is to connect to a water pollution treatment/control facility that has been completed and put into operation.”

IDEM interprets this requirement to mean that the ability of the collection system to comply with 327 IAC 3 can not be contingent on water pollution treatment/control facility construction that has not been completed and put into operation.

5. “The proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers.”

IDEM interprets this requirement to mean that neither the construction of new combined sewers nor the construction of additional combined sewers as an extension to an existing combined sewer system will be approved.

The Capacity Certification/Allocation Letter is included as Appendix A.

### **Application Review Procedure**

On an annual basis, IDEM (currently by the Office of Water Quality, Compliance Evaluation Section) will review the compliance status of Indiana’s CSO communities. This compliance review may include, but not be limited to, the following:

- *CSO Discharge Monitoring Reports* (DMRs) for the previous calendar year
- *Monthly Reports of Operation* (MROs) for the previous calendar year
- Bypass/Overflow Incident Reports for the previous calendar year
- Status of the *Combined Sewer System Operating Plan* (i.e., whether submitted, approved, updated, etc.)
- Status of the *CSO Long Term Control Plan* (LTCP) (i.e., whether submitted; approved or neither)
- Early Warning Sewer Ban (327 IAC 4) List
- Sewer Ban (327 IAC 4) List

The following should occur, dependant on the compliance status of the community, when reviewing construction permit applications:

- If there have been dry weather combined sewer overflows (CSOs) attributable to inadequate hydraulic capacity (i.e., not attributable to maintenance or mechanical failures) in the previous calendar year in any of the sewers downstream of the proposed construction, the construction permit application should be denied since dry weather CSOs were attributable to inadequate hydraulic capacity problems.
- If the community is on neither the Early Warning Sewer Ban nor the Sewer Ban lists (and there are no other known or identified compliance issues or problems), the permit application will be reviewed to determine adherence to the administrative requirements and technical standards described in 327 IAC 3.
- The certification statements will be reviewed to ensure that the administrative information and the technical standards are in concert with the statements.
  - i. If there are no discrepancies and the following are verified, the permit will be issued:
    - 1. Sufficient capacity exists in the receiving water pollution treatment/control facility to treat the additional daily flow.
    - 2. The receiving water pollution treatment/control facility will remain in compliance with applicable NPDES permit effluent limitations.
    - 3. The sanitary sewer or collection system that is the subject of the construction permit application is to connect to a water pollution treatment/control facility that has been completed and put into operation.
    - 4. The proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers.
  - ii. If there are discrepancies, the reviewer will contact the community and/or the design engineer to obtain information to resolve the discrepancies. Information that may be requested could include the provision of the hydraulic capacity of sewers (separate sanitary and combined) downstream of any proposed connection or, if appropriate to the community’s collection system, information that would indicate if the wastewater treatment plant was at peak design flow rate or capacity before combined sewer overflow activation when there were wet weather events.
  - iii. The IDEM annual review of CSO community compliance status will be reviewed to assess the following:
    - 1. If the evaluation concludes that adequate hydraulic capacity exists in the conveyance sewers that will transport the additional wastewater flows a construction permit may be issued.
    - 2. If it is determined that there could be an increase in the annual number of unauthorized CSO activations due to the additional wastewater flow, the permit may not be issued until additional information is received from the community to verify that no increase in unauthorized discharges would occur. If information cannot be provided

by the community to verify no increase in unauthorized CSO activations then a variance (per IC 13-14-8-8) would have to be granted for a construction permit to be reconsidered.

- If the community is on the Early Warning Sewer Ban list or if compliance issues or problems are identified, the permit application review staff will review the CSO community's annual compliance review regarding compliance with all NPDES permit requirements.
  - i. If the data evaluation concludes that the additional wastewater flow related to the proposed new sewer(s) can be successfully transported and treated within existing downstream sewers and treatment plant, a construction permit for the proposed sewer(s) may be issued if administrative requirements and technical standards have been met and the certifications are in accordance with the requirements and standards.
  - ii. If the data evaluation concludes that the additional wastewater flow cannot be transported or treated without causing NPDES Permit limit exceedances, the permit may not be issued.
  - iii. If it is determined that there will be an increase in the annual number of unauthorized CSO activations due to the additional wastewater flow, the permit may not be issued. A variance (per IC 13-14-8-8), including the demonstration of undue hardship, would have to be granted for a construction permit to be reconsidered. Examples of the undue hardship may be if the additional wastewater flow is to be generated from the connection of failing septic systems, brownfields, or urban redevelopment areas. The connection of failing septic systems, brownfields, or urban development areas generally represents a net environmental gain due to net improvements in water quality, reduction of urban sprawl, preservation of green space, reduced air pollution, and other environmental benefits.
  - iv. In addition, IDEM's review will determine if the community has reported combined sewer overflows on the affected sewer system in its Bypass/Incident Reports early in the review process. (It is noted that a wet weather event may be several days in duration because of extended periods of precipitation/snow melt and soil saturation extending the period that inflow and infiltration [I/I] may influence the hydraulic capacity of a sewer.)

If the community, or affected portion of the community's collection system, appears on the Sewer Ban list, a deficiency notice will be sent to the permit applicant that will include notification to them that a construction permit cannot be issued unless the community applies for and receives a Sewer Ban Waiver (per 327 IAC 4-1-6) and is granted a variance (per IC 13-14-8-8) from affected portions of 327 IAC 3 administrative requirements. Requests for the waivers and variances will be processed by the Office of Water Quality and the Office of Enforcement, as is appropriate for the specific request. If waivers and variances are granted, then the construction permit may be issued if all other administrative requirements and technical standards are met.

#### **APPENDIX A**

##### **Capacity Certification/Allocation Letter**

The authorized representative of the town, city, sanitary district, or any entity that has jurisdiction over the proposed collection system must sign and date the application and issue the following certification:

"I certify that I have reviewed and understand the requirements of 327 IAC 3 and that the sanitary collection system proposed, with the submission of this application, plans, and specifications, meets all requirements of 327 IAC 3. I certify that the daily flow generated in the area that will be collected by the project system will not cause overflowing or bypassing in the collection system from locations other than NPDES authorized discharge points and that there is sufficient capacity in the receiving water pollution treatment/control facility to treat the additional daily flow and remain in compliance with applicable NPDES permit effluent limitations. I certify that the proposed average flow will not result in hydraulic or organic overload. I certify that the proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers. I certify that the ability for this collection system to comply with 327 IAC 3 is not contingent on water pollution/control facility construction that has not been completed and put into operation. I certify that the project meets all local rules, laws, regulations, and ordinances. The information submitted is true, accurate, and complete to the best of my knowledge and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Reference: (*Water Pollution Control Board; 327 IAC 3-6-4; filed May 17, 1999, 12:11 p.m.: 22 IR 3086; errata filed Dec 1, 2000, 5:25 p.m.: 24 IR 1033*)

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### **INDIANA DEPARTMENT OF INSURANCE**

#### **Bulletin 117**

**May 19, 2003**

#### **Health Care Tax Credit of the Trade Adjustment Assistance Reform Act of 2002 Qualified Health Plans**

This Bulletin is addressed to all health maintenance organizations and insurance companies authorized to sell group and/or individual accident and sickness products in Indiana.

#### Background

The Trade Adjustment Assistance Reform Act of 2002 (TAA) created a tax credit for the purchase of private health insurance for certain TAA and Pension Benefit Guaranty Corporation eligible individuals. These are individuals that have lost health insurance

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coverage because an employer was forced – under certain specified conditions – to discontinue its business. The tax credit is equal to sixty-five percent (65%) of the premium paid by eligible individuals.

### Qualified Health Plans

The tax credit is available for the purchase of “qualified health insurance” as defined by the TAA. The following are always qualified health insurance.

- A. Coverage available from former employers through COBRA
- B. Coverage available from a spouse’s employer – if the employer pays less than fifty percent (50%) of the premium
- C. Individual Policy – if the policy became effective more than thirty (30) days prior to separation from the employer

In addition, the following state alternatives may constitute qualified health insurance. Each state is responsible for designating any of the following options as qualified health insurance. The options are:

- 1. Coverage offered through a state high-risk pool;
- 2. State-based continuation coverage provided by the state under a state law that requires such coverage;
- 3. Coverage under a health insurance program offered for state employees;
- 4. Coverage under a state based health insurance program that is comparable to the health insurance program offered for state employees;
- 5. Coverage through a state operated health plan that does not receive any federal financial participation; or
- 6. Coverage through an arrangement entered into by the state and a group health plan, an issuer of health insurance, an administrator, an employer or a purchasing pool.

The U.S. Department of Treasury is responsible for implementing the credit under its Health Coverage Tax Credit (HCTC) Program. Pursuant to the instructions from the U.S. Department of Treasury, each state is responsible for determining which of the above options 1-6 will be designated as “qualified health insurance” in its state. Qualified health insurance plans must include the following:

- P Guaranteed issue: qualifying individuals guaranteed enrollment regardless of medical status;
- P No pre-existing conditions exclusion: no pre-existing restriction may be imposed on qualifying individuals;
- P Non-discriminatory premium: premium may not be greater than that for similarly situated individuals not receiving the credit; and
- P Benefits: benefits are identical or substantially similar to those provided by coverage to similarly situated individuals not receiving the credit.

Qualified health insurance options 2 through 5 are not available in Indiana. Currently, Indiana has not designated any product or plan as qualified health insurance under option 6. Any entity wishing to have a product considered for certification as qualified health insurance in Indiana must file a proposal with the Indiana Department of Insurance by June 13, 2003. Proposals should include the following:

- P Schedule of Benefits;
- P Rates;
- P Statement as to whether the product has been filed with and approved by the Indiana Department of Insurance (include policy form numbers and approval dates) or if new policy forms will need to be filed/approved assurance that entity is able to have the filing to the Department within fifteen (15) days of receiving notice that product has been chosen as qualified;
- P Statement as to whether the submitting entity is proposing the product only if it is chosen to be the only qualified health insurance in Indiana or whether the proposal will stand if two (2) or more plans are certified in Indiana; and
- P Certification that the plan/product will comply with the required conditions listed above (e.g. guarantee issue).

Until a plan or plans has been designated by the Department of Insurance as qualified health insurance, no entity or insurance producer should be representing any plan or product as qualified for the HCTC. Enforcement action will be taken against any entity or producer representing a plan or product as qualified for the HCTC before certification by the Department of Insurance.

Questions and/or proposals should be submitted to:  
Joy S. Long, Deputy Commissioner – Health Issues  
Indiana Department of Insurance  
300 W. Washington St.  
Indianapolis, IN 46204  
jlong@doi.state.in.us  
(317) 232-5695; fax (317) 232-5251

INDIANA DEPARTMENT OF INSURANCE  
Sally McCarty, Commissioner

**INDIANA DEPARTMENT OF LABOR**  
**POLICY:**  
**BuSET TRAINING COURSES**  
Effective April 1, 2001

**Courses**

Bureau of Safety Education and Training (BuSET) consultants conduct OSHA 10-Hour and 20-Hour training courses, and other courses related to safety and health, according to the policies set forth in this document, which are subject to change at BuSET's discretion. The 20-Hour courses require an OSHA 10-Hour certification within the previous six months. To efficiently utilize state resources, BuSET will not conduct continuous OSHA 30-Hour courses; however, the timely completion of the OSHA 10-Hour and 20-Hour courses will qualify for an OSHA 30-Hour certification. Sponsorship of each course/seminar will be determined on a case-by-case basis, and sponsors and courses must conform to the policies set forth in this document.

**Topics**

Subjects to be covered during each OSHA 10-Hour and 20-Hour course are attached in Appendices A and B. BuSET consultants may be available to perform specific training seminars, in relation to an identified hazard, a new or updated standard, or a hazardous industry. Topics and length of the short seminars will vary according to each request.

**Length**

Each OSHA 10-Hour course will be conducted in a minimum of 10 hours. Each 20-Hour course will be conducted in a minimum of 20 hours. Extra hours for each course will remain at the discretion of BuSET. Other seminars may be conducted based on the sponsor's request.

**Scheduling & Priority**

The number and timing of general industry and construction OSHA 10-Hour courses conducted by BuSET during the fiscal year will be determined by BuSET.

OSHA 10-Hour courses will be scheduled on a first-come, first-served basis according to written request. Course assignments will be made to consultants or other personnel deemed appropriate by BuSET. Requests for specific consultants will be considered, but BuSET retains the right to conduct courses with personnel deemed appropriate by BuSET.

20-Hour general industry courses, which require attendees to hold an OSHA 10-Hour certification card obtained in the previous six months, will be scheduled four (4) times per year, once per fiscal quarter.\* The locations for these courses are as follows:

- Indianapolis area (60-mile radius from I-465)
- Southern Indiana
- Indianapolis area (60-mile radius from I-465)
- Northern Indiana

Sponsorship of the 20-Hour courses will be assigned on a rotating basis, and sponsorship assignments will be made by BuSET.

Special-topic and short seminars will be assigned on a first-come, first-served basis.

\* Due to the publication date of this policy, three (3) 20-Hour courses will be conducted in 2001.

**Attendee Requirements**

For each OSHA 10-Hour course, the sponsor must ensure that no less than twenty (20) attendees are registered three (3) weeks prior to the beginning date of the course, and must confirm this number with the lead BuSET consultant for the course. The sponsor will also confirm, with the lead BuSET consultant, the number of paid attendees one (1) week prior to the beginning date of the course. If the number of attendees falls below twenty (20) one week prior to the course, BuSET reserves the right to cancel their participation in the course. The maximum number of attendees is fifty (50); however, this number may be modified at the BuSET consultant's discretion.

For each 20-Hour course, the sponsor must ensure that no less than thirty (30) attendees are registered three (3) weeks prior to the beginning date of the course, and must confirm this number with the lead BuSET consultant for the course. The sponsor will also confirm, with the lead BuSET consultant, the number of paid attendees one (1) week prior to the beginning date of the course. If the number of attendees falls below thirty (30) one week prior to the course, BuSET reserves the right to cancel their participation in the course. The maximum number of attendees is sixty (60); however, this number may be modified at the BuSET consultant's discretion.

For each short seminar, the sponsor must ensure that no less than fifteen (15) attendees are registered one (1) week prior to the date of the seminar. The sponsor will confirm the number of attendees with the scheduled BuSET consultant one (1) week prior to the date of the seminar, and BuSET reserves the right to cancel their participation in the course if the number of attendees falls below fifteen (15).

**General Requirements**

The following requirements are mandated by BuSET for sponsorship of a training course that is conducted by BuSET personnel:

The Training Program Sponsor will furnish:

- Appropriate facilities suitable for training, including a room large enough for each attendee to have adequate table space. The

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room must be equipped with a functional Internet connection method, which may consist of an activated phone line or direct connection to an Internet service provider. (Please contact the lead consultant assigned to your training course in advance for discussion of this issue.)

- Food and drink, as appropriate, for morning and afternoon breaks
- Lunches, or a listing of eating establishments in the area which will allow attendees to return within one hour
- Large projection screen
- Printed outreach ring binder, with all sections as contained in the BuSET master, and with the sections numbered and tabbed\*
  - Master may be obtained from BuSET and returned to BuSET
  - Copies will be provided by the sponsor
- Occupational Safety and Health Standards Books, subject to the following qualifications:
  - Books must contain:
    - The entire 29 CFR 1910 or 1926, as appropriate for the course
    - 29 CFR 1903 and 29 CFR 1904
  - Books must be the current year's edition, as of the date of the course
  - One book for each attendee
  - Books may be purchased from BuSET at BuSET's current pricing, or from outside sources.
- Highlighter pen for each attendee
- Pen or pencil for each attendee
- Note paper tablet for each attendee
- Name card or name tag for each attendee
- TV and VCR (if applicable)

\* Not required for attendees to a 20-Hour course who previously attended an OSHA 10-Hour course. Attendees are requested to bring materials previously obtained at the OSHA 10-Hour course, or they must purchase new materials.

The Training Program Sponsor will:

- Make the training course available to personnel outside the confines of the sponsoring company or organization
- Provide notice to the BuSET trainers of the course schedule and assigned topics, in advance of the course
- Provide an agenda of the course to attendees
- Create and mail program advertisement fliers (if applicable)
- Ensure that the mandated number of attendees is met
- Collect all fees assessed by the sponsor
- Mail all certificates of completion and OSHA cards to attendees
- Allow BuSET to post the training program on their website
- Make miscellaneous copies of documents used in the course
- Sign BuSET's Training Courses Policy sponsor agreement
- Utilize all training material and supplies as deemed appropriate by BuSET.

In addition to these requirements set forth for the training program sponsors, BuSET will abide by the following requirements:

BuSET will:

- Provide instructors, at BuSET's discretion
- Provide an OSHA card and certificate of completion for each 10-Hour and 20-Hour course attendee who has attended all required portions of the specified course, and one certificate per company per company location. Exception: The sponsor may distribute the cards and certificates; however, the cards and certificates shall not be issued prior to the attendees' completion of the course.
- Mail the cards and certificates to the sponsor for distribution
- Ensure that the topics outlined in the appendices to this policy are covered appropriately
- Maintain a database of scheduled training courses
- Provide a method of evaluation of its instructors for each OSHA 10-Hour, 20-Hour, and 30-Hour course
- Distribute BuSET publications as deemed appropriate by BuSET.

BuSET will furnish:

- Instructors
- Computer
- Projector
- An evaluation worksheet for each attendee.

### **Sponsor Agreement**

By signing below, I signify that I understand and agree to abide by the terms and conditions contained in the course policy. I also

agree and understand that BuSET reserves the right to cancel their participation in a training course or seminar if the sponsor fails to meet the requirements contained in the policy.

\_\_\_\_\_  
Sponsor Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sponsor Organization

**Appendix D**  
**Effective July 1, 2003**

Dear Sponsor:

Thank you for going the extra mile for safety and health by sponsoring a training session with the Bureau of Safety Education and Training (BuSET). BuSET is dedicated to working with employers and employees to identify and resolve workplace health and safety issues. One of the ways we do this is through training seminars such as yours.

According to the attached published course policy, everyone who attends an OSHA 10-Hour course is required to have a standards book, which is provided by the sponsor and may be purchased through BuSET. The prices for occupational safety and health standards books purchased from BuSET are:

29 CFR 1910 (General Industry):           \$13.50

29 CFR 1926 (Construction):           \$12.00

These prices are typically \$30 lower than those offered by other suppliers. These books are provided as a public service, and by purchasing large quantities of books, BuSET is able to pass the savings on to you.

Again, thank you for promoting workplace safety and health by sponsoring these training courses for your fellow Hoosiers.

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**NATURAL RESOURCES COMMISSION**

**Information Bulletin #9 (Repeal)**

**July 1, 2003**

**SUBJECT:** Target Yields for Proof of Productivity on Nonprime Farmland

**PURPOSE:** Repeal of *Target Yields for Proof of Productivity on Nonprime Farmland*, Information Bulletin #9, published at 18 IR 2180.

**EXPLANATION:** The subject matter of the *Target Yields for Proof of Productivity on Nonprime Farmland* Information Bulletin #9, published at 18 IR 2180, is now addressed by rule.

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**DEPARTMENT OF NATURAL RESOURCES**

**Information Bulletin #20**

**(First Amendment)**

**Ratemaking Process for Resorts and Marinas under Lease with the Department of Natural Resources**

**1. Purpose**

The purpose of this information bulletin is to implement an informal process for the administrative review of ratemaking recommendations for resorts and marinas under lease with the department of natural resources. The process was established by the natural resources commission during a meeting held March 24, 1998 and made applicable to rate increases to become effective in 1999 and in subsequent years. The process was published in the Indiana Register on May 1, 1998 at page 3209 as Information Bulletin #20. Amendments were made to the information bulletin during the commission meeting held on May 20, 2003, and amendments were made effective July 1, 2003. The timeframes established by the information bulletin are essential to its effective implementation.

**2. Rate Increase Requests**

A lessee shall submit its request for a guestroom, slip, or houseboat (if applicable) fee increase to the department of natural resources, division of state parks and reservoirs (the "department") in accordance with the existing lease agreement for the following year by April 1 of the preceding year. The lessee shall include justification for the increase request along with comparable rates from other marinas.

**3. Processing Rate Increase Requests and Comments**

(A) Upon receiving a request, the department will inform the division of hearings of the natural resources commission (the "hearings division"). The hearings division will assign a cause number and, in consultation with the department, select the date and

time for a rate hearing to be held in Marion County. The department will advise the lessee of the date, time, and location of the rate hearing, at which time the lessee and affected persons will have the opportunity to provide comments to a hearing officer for the commission. This hearing will be held in early June or July of each year.

(B) By May 30, the lessee shall notify by must provide written notice, by personal delivery or U.S. first class mail, to each slip renter or buoy renter that the lessee is requesting a rate increase. The lessee shall include the time, date, and location of the rate hearing. This notice shall include the proposed new rates. The notice shall also advise the renter of the opportunity to provide comments to the hearing officer, either by U.S. first class mail or electronic mail. Before the public hearing, the lessee must provide the hearings division with a listing that includes the names and addresses of persons notified under this paragraph. The lessee shall, by affidavit or affirmation, authenticate that all addressees were served as indicated in the listing. If the lessee asserts the listing contains trade secrets, the Uniform Trade Secrets Act (IC 24-2-3) applies.

(C) Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate increase request shall be made available for the public to review at the lessee's business office, during normal business hours. A copy will be available for review at the Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, IN 46204. The listing of persons notified required in paragraph (B) is not governed by this paragraph.

(D) Affected persons may send written comments concerning the proposed rate increase to the Division of Hearings, Natural Resources Commission, 402 West Washington Street, Room W272, Indianapolis, IN 46204. Email comments may also be submitted to the hearing officer. The email address will be provided in the letter sent by the lessee to the affected parties by May 30.

(E) In accordance with the existing lease agreements, the department will analyze comparable facilities to compare rates with those sought by the lessee. Results of that analysis will be presented at the rate hearing conducted by the hearing officer. Information used in this analysis will also be available for inspection at the division of state parks and reservoirs office in Indianapolis.

#### **4. Public Hearing and Presentation to Commission**

Affected persons may attend the rate hearing and provide oral or written statements.

The hearing officer shall conduct the hearing in an orderly and informal manner designed to develop a fair and complete agency record. The administrative orders and procedures act (IC 4-21.5) does not apply, but the commission delegates authority to the hearing officer under IC 14-11-1-3 to make any reasonable orders to implement this information bulletin.

The lessee's request and any supporting documentation, written comments provided by affected persons, the analysis by the department, and oral and written statements received during the rate hearing form the record upon which the hearing officer shall review the request for rate increase. Following the completion of the review, the hearing officer shall make a written report to the natural resources commission. The report shall include written findings with respect to the requested rate increase and a proposal to the commission for recommendations to the U.S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the department, and any other person who requests a copy.

The hearing officer shall present the findings and recommendations to the natural resources commission during a meeting to be held in August or September. During that meeting, the commission shall either recommend approval of the rate increase, disapproval of the rate increase, or approval of a rate increase in an amount less than requested by the lessee. Recommendation for favorable consideration of a rate increase shall not be withheld unless, in the opinion of the commission, fees submitted exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

#### **5. Recommendation by Commission and Final Action by Army Corps**

The commission's secretary shall memorialize the commission's recommendations in writing. Within seven (7) days after the commission meeting, the department shall forward the recommendation to the District Engineer of the U.S. Army Corps of Engineers for final action. No rate increase is effective until the lessee receives a letter of approval noting both the recommendation by the commission and the approval of a rate increase by the U.S. Army Corps of Engineers.

#### **6. Interim Rate Adjustments or Clarifications**

The commission delegates authority to the director of the division of state parks and reservoirs to approve interim rate adjustments for projects or slips not addressed in this process due to new construction or modification of existing facilities. The rates apply only until the next rate request cycle, however, when a lessee must present a petition for rate approval as provided in this information bulletin.

#### **7. Index of Commission Findings and Recommendations**

The hearings division is directed to index, and place on the commission's website, findings and recommendations made under this information bulletin after August 1, 2003. To promote equity and consistency, the department and the commission may consider these indexed findings and recommendations as precedents.

**DEPARTMENT OF STATE REVENUE  
Audit-Gram Number IR-020  
May 12, 2003**

[This Audit-Gram replaces the prior issue dated May 10, 2001 published at 24 IR 2931]

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**Property Purchased or Used in Indiana**

**Authority:** IC 6-2.5-2-1(a); IC 6-2.5-3-1(b); IC 6-2.5-3-2(a); IC 6-2.5-3-5; 45 IAC 2.2-3-17; *Rhoades v. Ind. State Revenue*, Ind. Tax Court (2002)

**IC 6-2.5-2-1. Sales tax imposed.**

(a) [T]he state gross retail tax, is imposed on retail transactions made in Indiana.

[1980]

**IC 6-2.5-3-2. Use tax imposed.**

(a) [T]he use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

[1980]

**IC 6-2.5-3-5. Credit against use tax.**

(a) A person is entitled to a credit against the use tax... equal to the amount... of sales tax... paid to another state... for the acquisition of that property.

[1980]

**I. GENERAL STATEMENT**

A. Property acquired or rented in Indiana is subject to the Indiana Sales Tax to be collected by the Indiana vendor.

B. Property acquired or rented outside Indiana for storage, use, or consumption in Indiana is subject to the Indiana Use Tax to be paid by the purchaser either directly to the Department or to a vendor holding an Indiana Registered Retail Merchants Certificate.

**II. EXEMPTION FROM SALES TAX OR USE TAX [FN 1]**

A. Property acquired or rented in Indiana is not subject to Indiana Sales Tax if the purchaser is allowed an exemption contained in IC 6-2.5 Chapters 4 and 5.

B. Property acquired or rented outside Indiana is not subject to Indiana Use Tax if the property:

1. is not stored, used, or consumed in Indiana, or

2. is stored in Indiana, including no more than incidental handling, and is subsequently transported and used solely outside Indiana, [FN 2] or

3. is processed, printed, fabricated, or manufactured into, attached to, or incorporated into tangible personal property in Indiana, and is subsequently transported out of Indiana for use solely outside Indiana. [FN 3]

**III. PROPERTY USED "SOLELY OUTSIDE INDIANA" [FN 4]**

If property upon which no Indiana Sales Tax has been paid is shipped from a point in Indiana to an out-of-state location for storage and that property is subsequently shipped back to Indiana for use, the property is then subject to the Indiana Use Tax.

**IV. CREDIT FOR TAX PAID OUTSIDE INDIANA**

A. A purchaser who has acquired or rented property in Indiana upon which Indiana Sales Tax was required to be paid is not allowed a credit for Use Tax paid to another state. A state which imposes a Use Tax upon property used in that state should allow a credit for Sales Tax required to be paid to an Indiana vendor.

B. A purchaser who has acquired or rented property in a transaction occurring outside Indiana upon which the sales tax was required to be paid to a state other than Indiana is allowed a credit in the amount of such tax paid against any Indiana Use Tax due. [FN 5] Such credit shall not exceed the Indiana Use Tax.

[FN1] The use of a Direct Payment Certificate (IC 6-2.5-8-9) does not constitute an exemption from Sales Tax but only the certificate holder's agreement to pay any tax due directly to the Department.

[FN 2] IC 6-2.5-3-1(b)

[FN 3] IC 6-2.5-3-2(d)

[FN 4] As contained in footnote 2 and 3 above.

[FN 5] Note: IC 6-2.5-3-5(b) [45 IAC 2.2-3-17] which excludes motor vehicles from this credit was found by the Ind. Tax Court in *Rhoades v. Dept*, Sept. 6, 2002 to violate the Commerce Clause of the U.S. Constitution.

**DEPARTMENT OF STATE REVENUE  
INFORMATION BULLETIN #70  
Sales Tax  
May 2003**

**DISCLAIMER:** Information Bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information, which is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Farm Markets

**REFERENCES:** IC 6-2.5-2; IC 6-2.5-5-20; IC 6-2.5-6; IC 6-2.5-8-1; IC 6-2.5-8-8; IC 6-2.5-8-9; IC 6-8.1-10

**The purpose of this bulletin is to provide Indiana sales tax information for persons operating private Farm Markets or participating in organized Farmers or City Markets.**

I. Persons selling produce and various items of food for human consumption are not required to charge and remit sales tax on these items and are not required to register with the Indiana Department of Revenue as a Retail Merchant if that is the only item they sell. This exemption for food items does not apply to items such as candy, soft drinks and food items sold for immediate consumption such as sandwiches, soups and other prepared food items sold for consumption at or near the premises.

II. Persons selling arts, crafts and items not suitable or intended for human consumption are retail merchants and must register and collect Indiana Sales Tax on such sales. Items in this category may include but are not limited to: Potholders, bird houses, candles, cut flowers and flower arrangements, picnic tables, benches, chairs and other forms of lawn and patio furniture, and decorative and ornamental items such as gourds, ornamental corn and bittersweet.

III. If a person is selling taxable items such as described in Item II above, they must register with the Indiana Department of Revenue by completing and filing Form BT-1 Business Tax Application. **There is a one-time registration fee of \$25.00.** Upon registration and for the first full year the merchant will be required to file sales tax returns [Form ST 103] based on their estimated taxable sales volume as provided under items A. thru D. below. After the first year the account will be evaluated and the merchant will be required to file sales tax returns under the following schedule:

- A. If the average monthly tax collected is \$10.00 or less the return will be due on an annual basis.
- B. If the average monthly tax collected is between \$10.00 and \$25.00 the return will be due on a semi-annual basis.
- C. If the average monthly tax collected is between \$25.00 and \$75.00 the return will be due on a quarterly basis.
- D. If the average monthly tax collected is more than \$75.00 the return will continue to be due on a monthly basis.

A merchant that only does business during specific months of the year can elect to file on a seasonal basis which will only require the filing of monthly sales tax returns for the specific months the merchant is actually open for business.

Sales tax returns are due on the 30<sup>th</sup> day of the month following the close of the reporting period. (NOTE: Tax due in excess of \$1000.00 must be filed by the 20<sup>th</sup> day of the month following the close of the reporting period).

Any person desiring to register as a Retail Merchant may do so at the Taxpayer Services Office located on the 1<sup>st</sup> floor of Government Center North in Indianapolis or at any District Office of the Indiana Department of Revenue located through out the State. Registration may also be accomplished on the internet at: [<http://www.in.gov/dor/taxforms/pdfs/bt-1.pdf>]

IV. It may be expected that persons selling taxable items may, at times, sell their products to a commercial buyer for resale. If a person buys items for resale, he must issue an exemption certificate [Form ST-105 or other approved exemption certificate or a direct payment permit issued by the Indiana Department of Revenue] to the merchant. The merchant must retain a copy of the form or permit and will then report these sales as exempt sales on their Sales Tax return.

V. It is extremely important for a person, registered as a retail merchant, to file periodic sales tax returns in a timely manner. For each period, that a sales tax return is due, the person must file a return. If no tax was collected for that particular period, a return must be filed showing no tax due. The frequency and due date of such returns will be evaluated, after the first year, as provided under Item III.

VI. Failure to file returns or filing returns after the due date will result in the assessment of interest on any delinquent payment and the assessment of a penalty. If no return is filed for a taxable period the Department may issue a billing for that period based on the "Best Information Available" [BIA]. If such a billing is issued by the Department it will be the responsibility of the merchant to prove that billing was in error and establish the correct amount of tax, if any, that was actually due for that period. Penalty for delinquent payments is 10% of the tax due or \$5.00 whichever is greater. Penalty for failure to file a return is 20% of the tax due.

Persons having questions or desiring additional information may contact Taxpayer Services at (317) 233-4015 or any District Office of the Indiana Department of Revenue.

Kenneth L. Miller  
Commissioner

**DEPARTMENT OF STATE REVENUE**

03990176.LOF

**LETTER OF FINDINGS NUMBER: 99-0176**

**State Withholding Tax**

**For the 1995, 1996, and 1996 Tax Years**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Employee Travel Expense Payments – State Withholding Tax**

**Authority:** IC 6-3-4-8(a); IC 6-3-4-8(g); I.R.C. § 162(a)(2); I.R.C. § 274(d); I.R.C. § 3401(a); I.R.C. § 3402; American Airlines, Inc. v. United States, 204 F3d 1103 (Fed. Cir. 2000); Treas. Reg. § 1.62-2(c); Treas. Reg. § 1.62-2(c)(5); Treas. Reg. § 1.62-2(f)(1); Treas. Reg. § 31.3121(a) to 1(h)

Taxpayer argues that the audit erred in determining that it was required to withhold state adjusted gross income tax from the amount of money it paid to its employees in the form of travel expense payments.

**II. Abatement of the Ten Percent Negligence Penalty**

**Authority:** IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer maintains that it is entitled to abatement of the ten percent negligence penalty because – based upon industry standards and practices – it acted in good faith in deciding it was not required to withhold taxes on amounts it paid its employees for travel expenses.

**STATEMENT OF FACTS**

Taxpayer is in the construction business. Taxpayer performs construction work for customers both inside and outside the state. Taxpayer has its own regular employees and occasionally subcontracts work as necessary.

The Department of Revenue (Department) conducted a review of taxpayer's business records and income tax returns. During that audit review, the Department concluded that taxpayer had failed to withhold taxes on certain travel expense payments it made to its employees. Accordingly, the Department assessed additional amounts of withholding taxes. Taxpayer disagreed with this conclusion and submitted a protest to that effect. An administrative hearing was held during which taxpayer explained the basis for its protest. This Letter of Findings results.

**I. Employee Travel Expense Payments – State Withholding Tax**

Taxpayer performs construction work at off-site locations. Each workday, taxpayer instructs its employees to travel directly from their homes to a particular construction site. The distance from each employee's home to the construction site varies as does the amount of time each employee needs to travel to that site. However, taxpayer regularly compensates its employees for the time spent in traveling from their homes to the construction site.

Taxpayer compensates each employee on the basis of the employee's hourly wage. Taxpayer compensates each employee on the basis of the distance from that employee's home to the site. An employee who needs one hour to travel to the site will be paid for that one hour. An employee, who needs two hours to travel to the site, will be paid for two hours. An employee who needs one hour to travel to the site and who is paid an hourly wage of \$10 will be paid an extra \$10. Another employee – who also lives one hour from the site but who is paid \$20 per hour – will be paid an extra \$20.

If a number of employees decide to carpool to the site, they will receive the same amount as if they each had traveled individually. If an employee rides along with the company truck to the construction site, that employee will receive the same amount as if that employee drove his or her own vehicle. Theoretically, if a employee traveled to the construction site Monday morning, took up temporary residence near the site for the remainder of the work-week and traveled home Friday afternoon, that employee would be paid the same amount as if the employee traveled to and from the construction site every day of the workweek.

The audit determined taxpayer had not withheld state and county taxes from the amounts paid as travel expenses. The audit concluded that these amounts were wages from which taxpayer should have withheld taxes. Taxpayer disagrees arguing that the amounts were simply reimbursements for the employees own expenses incurred as a result of traveling to and from work.

Every Indiana business – which is required under federal law to withhold, collect, and remit withholding taxes to the Internal Revenue Service on wages paid employees – must also withhold Indiana withholding tax on those same wages. IC 6-3-4-8(a). If the Indiana employer fails to withhold the state tax from its employees' wages, the employer itself becomes liable for the tax. IC 6-3-4-8(g).

Taxpayer argues that because it was not required under federal law to withhold taxes from the travel compensation payments, it was not required to do so under Indiana law.

I.R.C. § 3402 requires employers to withhold wages for payment of an employee's income taxes. "Wages" are defined as including "all remuneration" subject to stated exceptions. See I.R.C. § 3401(a). One of these exceptions includes amounts paid

employees as “traveling and other expenses.” The expenses are defined at Treas. Reg. 31.3121(a) to 1(h) which states:

Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined as a single payment.

The employer’s obligation to withhold federal (and state) taxes from an expense allowance depends on whether the amount is paid under an accountable or a non-accountable plan. Treas. Reg. § 1.62-2(c). *See* I.R.C. § 274(d). Expenses that are reimbursed under an accountable plan are not reported as income. Any expense amounts paid under a non-accountable plan must be included in the employee’s income, and the employer must withhold taxes. Treas. Reg. § 1.62-2(c)(5).

A plan under which an employee is reimbursed for expenses – or receives an allowance to cover those expenses – is an accountable plan only if three conditions are satisfied: (1) there must be a business connection for the expenses; (2) the employee must either substantiate or be deemed to have substantiated the expenses; and (3) the employee must return to the employer amounts in excess of the substantiated expense. Treas. Reg. § 1.62-2(c).

Although I.R.C. § 162(a)(2) allows a deduction from an employee’s income for ordinary and necessary business expenses including the employee’s travel expenses, no deduction is allowed unless the person claiming the deduction meets the substantiation requirements of I.R.C. § 274(d). Therefore, unless taxpayer reasonably believed that its employees were keeping adequate records of their traveling expenses to meet the substantiation requirements of I.R.C. § 274(d), taxpayer had no reason to assume that the employees could exclude from their gross income the amount taxpayer paid as travel expenses. American Airlines, Inc. v. United States, 204 F3d 1103, 1106 (Fed. Cir. 2000).

Taxpayer paid each employee a travel allowance based upon the number of days the employee worked and the distance that employee lived from the current work-site. Whether the employee drove those miles each work-day, whether the employee car-pooled with other employees, or whether the employee rode with the taxpayer’s truck to the worksite was not relevant to the amount of travel allowance actually paid. There is no indication taxpayer expected the employees to substantiate their actual travel expenses or that the employees would be entitled to exclude that portion of their wages as travel expenses. Taxpayer’s travel allowance payments do meet the substantiation requirement because the plan was not reasonably calculated not to exceed the amount of expenses or anticipated expenses are required under I.R.C. § 274(d).

The federal regulation requires an employee to return to the employer with a reasonable time any “amount paid under the arrangement in excess of the expense substantiated in accordance with paragraph (e) of this section.” Treas. Reg. 1.62-2(f)(1). Under taxpayer’s travel allowance plan, each employee was paid an allowance based, in part, on that employee’s hourly wage. There is no indication those employees whose travel allowance exceeded their actual expenses ever returned or were ever expected to return any portion of the allowance payment to the taxpayer. This conclusion goes hand-in-hand with the determination that no employee was ever expected to substantiate their actual expenses.

There is insufficient information to establish whether or not taxpayer ever paid the travel hours “by making a separate payment or by specifically indicating the separate amounts...” as required under Treas. Reg. 31.3121(a) to (h). Nevertheless, taxpayer’s travel allowance plan was not an “accountable plan” as defined under Treas. Reg. § 1.62-2(c) because the travel allowance payments were not calculated to reimburse its employees for the expenses each employee actually incurred in traveling to and from the worksites as required under I.R.C. § 274(d).

Taxpayer paid its employees for the time they spent traveling to and from their workplace. The payments were made in exchange for time the employee was reasonably expected to spend in traveling to the workplace. As such, the payments constituted wages for which taxpayer was required to withhold federal, state, and county taxes.

#### **FINDING**

Taxpayer’s protest is respectfully denied.

#### **II. Abatement of the Ten Percent Negligence Penalty**

Taxpayer argues that it is justified in requesting the Department to exercise its discretion to abate the ten percent negligence penalty assessed at the conclusion of the original audit examination. Taxpayer maintains that its practice of paying its employees for time spent in traveling to and from the worksite – and not withholding income taxes – is a common practice in the construction industry. In addition, taxpayer maintains that there are no Indiana appellate or Supreme Court decisions directly addressing this issue. Further, taxpayer states that the Department has not addressed the issue in any previous Letter of Findings, Revenue Ruling, or Information Bulletin. Taxpayer points to a number of judicial precedents addressing the question which taxpayer states are “inconsistent at best.” Taxpayer also states that the issue was not raised in any of the Department’s previous audits.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer’s negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as “the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.” Negligence is to “be determined on a case-by-case basis according to the facts and circumstances of each taxpayer.” *Id.*

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based

on “reasonable cause and not due to willful neglect.” Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish “reasonable cause,” the taxpayer must demonstrate that it “exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed....”

Taxpayer has demonstrated that its failure to withhold state income taxes was “not due to willful neglect.”

**FINDING**

Taxpayer’s protest is sustained.

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**DEPARTMENT OF STATE REVENUE**

04990404.LOF

**LETTER OF FINDINGS NUMBER: 99-0404**

**Indiana Sales and Use Tax**

**For the Tax Years 1995, 1996, and 1997**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department’s official position concerning a specific issue.

**ISSUES**

**I. Production Equipment**

**Authority:** IC 6-2.5-1-1 et seq.; IC 6-2.5-5-3(b); Indiana Dept. of State Revenue v. Cave Stone, 457 N.E.2d 520 (Ind. 1983); Mumma Bros. Drilling Co. v. Dept. of Revenue, 411 N.E.2d 676 (Ind. Ct. App. 1980); General Motors Corp. v. Dept. of State Revenue, 578 N.E.2d 399 (Ind. Tax Ct. 1991); 45 IAC 2.2-5-8(c); 45 IAC 2.2-5-8(g)

Taxpayer maintains that certain items of equipment, attached to its production machinery and used to service and maintain that machinery, are entitled to the production exemption.

**II. Material Handling Equipment**

**Authority:** IC 6-2.5-5-3(b); 45 IAC 2.2-5-8(d); 45 IAC 2.2-5-10(c)(2)(D)

Taxpayer argues that equipment used in handling and packaging its completed plastic bottles is entitled to the manufacturing exemption because the packaging of the bottles occurs within its direct production activities.

**III. Air-Conditioning Equipment**

**Authority:** IC 6-2.5-5-3(b); Indiana Dept. of State Revenue v. Cave Stone, 457 N.E.2d 520 (Ind. 1983); Dept. of State Revenue v. Kimball International, Inc., 520 N.E.2d 454 (Ind. Ct. App. 1988); Ind. Dept. of Revenue v. RCA Corp., 310 N.E.2d 96 (Ind. Ct. App. 1974)

According to taxpayer, the air conditioning equipment used to maintain temperature and humidity levels inside of its production plant, is directly involved in the direct production of its tangible personal property and is exempt from sales and use tax.

**IV. Storage Silos**

**Authority:** 45 IAC 2.2-3-9(e)(3); 45 IAC 2.2-3-12(c); 45 IAC 2.2-5-8(e); 50 IAC 2.2-1-3

Taxpayer disagrees with the audit’s conclusion that its storage silos were “storage equipment” subject to use tax. According to taxpayer, the storage silos are actually improvements to “real property” exempt from the gross retail tax.

**V. Abatement of the Ten Percent Negligence Penalty**

**Authority:** IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer argues that the imposition of the ten percent negligence penalty was incorrect and that the Department is required to abate the penalty.

**STATEMENT OF FACTS**

Taxpayer produces empty plastic bottles by injection molding. The empty plastic bottles are then sold to other manufacturers which use them for packaging various consumer products. Taxpayer’s production facility is located within the state. The Department conducted an audit which resulted in the assessment of additional sales and use tax. Taxpayer disagreed with a number of those assessments and submitted a protest. A number of the protested issues were resolved at the protest review stage. An administrative hearing was conducted, and this Letter of Findings results.

**DISCUSSION**

**I. Production Equipment**

Taxpayer purchased a number of items of equipment which it uses with, or are attached to, its production machinery. These items consist of stairs, platforms, guards, ladder, and crossover steps. The audit concluded these items were not directly involved in the production of plastic bottles and assessed use tax accordingly. Taxpayer disagrees arguing that the equipment is directly involved in the production of its plastic bottles.

In Indiana, a sales tax is imposed on retail transactions, and a complementary use tax is imposed on tangible personal property that is stored, used, or consumed in the state. IC 6-2.5-1-1 et seq. In this instance, taxpayer relies on the tax exemption found at IC 6-2.5-5-3(b). That particular exemption states that: “Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for *direct* use in the *direct* production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.” (*Emphasis added*). It is taxpayer’s contention that the various items of equipment fall within the definition of “direct use” as provided in 45 IAC 2.2-5-8(c). That regulation reads as follows:

The state gross retail tax does not apply to purchases of manufacturing machinery, tools, and equipment to be directly used by the purchaser in the production process provided that such machinery, tools, and equipment are directly used in the production process; i.e., they have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces tangible personal property.

The Legislature has provided Indiana manufacturers a sales tax exemption for certain purchases of equipment directly involved in the direct production of manufactured goods. However, in enacting the stringently worded exemption, the Legislature plainly did not intend to create a global exemption for any and all equipment which a manufacture purchases for use within its manufacturing facility. The manufacturing exemption, “fairly read, is meant to exempt capital equipment that meets the ‘double direct’ test.” *Mumma Bros. Drilling Co. v. Dept. of Revenue*, 411 N.E.2d 676, 678 (Ind. Ct. App. 1980). The court has held that capital equipment “in order to be exempt, (1) must be *directly* used by the purchaser and (2) be used in the *direct* production, manufacture, fabrication, assembly, extraction, mining, processing, refining or finishing of tangible personal property.” *Indiana Dept. of State Revenue v. Cave Stone*, 457 N.E.2d 520, 525 (Ind. 1983) (*Emphasis added*). “[T]he test for directness requires the equipment to have an ‘immediate link with the product being produced.’” *Id.* Accordingly, the sales tax exemption is applicable to that equipment which meets the “double direct” test and is “essential and integral” to the manufacture of taxpayer’s tangible personal property. *General Motors Corp. v. Dept. of State Revenue*, 578 N.E.2d 399, 401 (Ind. Tax Ct. 1991).

Undoubtedly, the various items of equipment play a significant role in the production of taxpayer plastic bottles. However, the equipment does not have an immediate relationship to the production of the bottles, does not meet the double direct test, and is not essential and integral to the production of taxpayer’s plastic bottles. As noted in 45 IAC 2.2-5-8(g), “The fact that particular property may be considered essential to the conduct of the business of manufacturing because its use is required... by practical necessity does not itself mean that the property ‘has an immediate effect upon the article being produced.’”

#### FINDING

Taxpayer’s protest is respectfully denied.

## II. Material Handling Equipment

Taxpayer argues that the purchase of the tilt tables, pack stands, and a palletizer are exempt from the gross retail tax because these items of equipment are involved in the direct production of the plastic bottles. The pack stands are used by production workers to fill empty boxes with plastic bottles. The palletizer is used to stack the filled boxes onto a skid before the loaded skid is shrink-wrapped and banded. Taxpayer failed to precisely describe the manner in which the “tilt tables” are used; apparently, the “tilt tables” are used to assist workers in handling the packaged or partially packaged material.

The audit determined that this equipment was used to move taxpayer’s finished bottles after the production process was complete and indicated that the equipment was subject to use tax.

As stated above, taxpayer is entitled to an exemption for equipment and machinery purchased “for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.” IC 6-2.5-5-3(b). Common sense and practical experience indicate that there are some activities which occur *before* a manufacturer begins producing tangible personal property and that there are some activities which occur *after* the manufacturer completes producing its tangible personal property. 45 IAC 2.2-5-8(d), entitled “Pre-production and post-production activities,” defines those parameters stating that, “‘Direct use in the production process’ begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the production has altered the items to its completed form, including packaging, if required.”

The regulation provides specific guidance in classifying taxpayer’s own equipment as either “pre-production” or “post-production.” In one of the examples provided in 45 IAC 2.2-5-10(c)(2)(D), a manufacturer’s “production process” concluded “with the final packaging of the product onto the case palletizers.” Using the cited example as the benchmark, the Department concludes that taxpayer’s own palletizer is entitled to the exemption provided under IC 6-2.5-5-3(b). In addition – using the palletizer as a reference – the Department concludes that the remaining items of equipment are entitled to this same exemption to the extent that the equipment is involved in handling the plastic bottles before arriving at the palletizer.

#### FINDING

Taxpayer’s protest with respect to the palletizer is sustained. Taxpayer’s protest with respect to the tilt tables and the pack stands is sustained to the extent that these two specific categories of equipment are used to handle the plastic bottles before reaching the palletizer.

### III. Air-Conditioning Equipment

Taxpayer purchased cooling equipment which is used to air-condition its manufacturing plant. Taxpayer argues that, because the cooling equipment is necessary for the production of its plastic bottles, its initial purchase of the cooling equipment was exempt from sales tax pursuant to IC 6-2.5-5-3(b). The audit disagreed with taxpayer's argument, found that the cooling equipment was only peripherally involved with the direct production of taxpayer's plastic bottles, and assessed additional use tax accordingly.

Taxpayer makes its bottles using raw plastic pellets. The pellets are blended, dried, melted, and then injected into molds. According to taxpayer, the molding must occur in a moisture-free environment, or unacceptable levels of condensation would accumulate on the molds.

The molding machines are enclosed in large plexiglas structures. Separate air-handling equipment supplies air to these enclosed structures. This separate air-handling equipment is not at issue; what is at issue is the primary cooling equipment used to air-condition the entire manufacturing facility. Taxpayer argues that, because doors to the plexiglas structures are opened and closed during production of the bottles, air from the plant migrates into the enclosures. According to taxpayer, unless the entire plant was air conditioned, the unconditioned plant air would contaminate the production of the plastic bottles.

Taxpayer cites to Dept. of State Revenue v. Kimball International, Inc., 520 N.E.2d 454 (Ind. Ct. App. 1988) in support of its argument that its air conditioning equipment is entitled to the exemption. In that case, the court found that the manufacturer's air make up units were exempt because, without the air make up units, "the manufacturing process would not be possible" and because the units were "essential and integral parts of the entire manufacturing process." *Id.* at 457.

However, the taxpayer's plant-wide cooling equipment is not analogous to the air make up units in Kimball. In Kimball, the air make up units were used to supply conditioned air to the manufacturer's isolated paint booths. *Id.* at 455. There is no indication that taxpayer's plant-wide air conditioning equipment is as essential or integral to the production of the plastic bottles. Although the court noted that, "qualification for the exemption is highly fact sensitive," taxpayer's circumstances are more comparable to that of the picture tube manufacturer in Ind. Dept. of Revenue v. RCA Corp., 310 N.E.2d 96 (Ind. Ct. App. 1974). *Id.* 456. In that case, the court found that the picture tube manufacturer's environmental control equipment, used to maintain a plant-wide dust free environment, was not entitled to the exemption. *RCA* at 100. The picture tube manufacturer's air conditioning equipment was not exempt because the equipment's "immediate effect [was] on the surroundings in which the manufacturing process [took] place and only through the intervening agency of those surroundings, on the tubes or on the process by which they [were] manufactured." *Id.*

Taxpayer's plant-wide air conditioning equipment is not entitled to the exemption because the equipment is not directly used in the production of the plastic bottles and has no "immediate link with the product being produced." *Cave Stone*, 457 N.E.2d at 525.

### FINDING

Taxpayer's protest is respectfully denied.

### IV. Storage Silos

Taxpayer purchased "silos" for the purpose of storing raw plastic pellets. The silos are located outside of the manufacturing plant. When the raw plastic pellets first arrive at taxpayer's facility, they are loaded into the silos. When taxpayer is ready to use the pellets, they are transferred to "surge bins," combined to achieve the desired color, and then moved to the molding machines in the production area.

The audit found that, pursuant to 45 IAC 2.2-5-8(e), the silos were not exempt and assessed use tax accordingly. The regulation states that, "Tangible personal property used in or for the purpose of storing raw materials... is subject to tax..." There is no question that the silos are used to store taxpayer's "raw materials." According to taxpayer, what is at issue is whether the silos are "[t]angible personal property."

The audit determined the silos were tangible personal property more similar to "equipment" than to "real property." In support of that conclusion, the audit noted that the silos were subject to extensive wear and tear, were replaced frequently (approximately every two years), were not of a "permanent or substantial nature," and would likely be moved if the plant were ever moved.

Taxpayer argues that the silos are "real property" exempt from sales and use tax pursuant to 45 IAC 2.2-3-9(e)(3). That regulation states, in relevant part, as follows:

With respect to construction materials a contractor acquired tax-free, the contractor is liable for the use tax and must remit such tax... to the Department of Revenue when he disposes of such property in the following manner... (3) Lump sum contract. [The contractor] converts the construction material into realty on land he does not own pursuant to a contract that includes all elements of cost in a total contract price.

In addition, taxpayer – in support of the argument that the storage silos should be classified as real property – cites to the "Real Property Assessment" of the Indiana Administrative Code. In particular, taxpayer points to 50 IAC 2.2-1-3, which states in part that, "The use of a unit of machinery, equipment, or a structure determines its classification a Real or Personal Property. If the unit is a land or building improvement, it is considered as Real Property." Because the storage silos hold the raw materials before taxpayer's manufacturing process begins, and because no "manufacturing" occurs *within* the silos, the silos should be classified as "real property" exempt from sales and use tax.

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## Nonrule Policy Documents

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The Department declines to accept taxpayer's conclusion that the real property regulations and the sales and use tax regulations should be read in pari materia. Although 50 IAC 2.2-1-3 provides some indication that silos – together with “grain elevators” and “cupolas – are classified as “real property,” there is nothing to indicate that the IC 6-1.1 et seq. (property tax) and IC 6-2.5 et seq. (gross retail tax) are in pari materia.

Rather, the Department finds that the pellet storage silos at issue are more similar to discharge bins or storage hoppers than to “an improvement to real estate” (45 IAC 2.2-3-12(c)) or “realty on land” (45 IAC 2.2-3-9(e)(3)). Because the Department agrees with taxpayer's position that the silos are used to store its plastic pellets before the onset of production, and because the Department finds that the silos are storage equipment, the audit's assessment of additional use tax was not erroneous. Under 45 IAC 2.2-5-8(e), “Tangible personal property used in or for the purpose of storing raw materials or finished goods is subject to tax....”

### FINDING

Taxpayer's protest is respectfully denied.

#### V. Abatement of the Ten Percent Negligence Penalty

Taxpayer protests imposition of the ten percent negligence penalty. Taxpayer requests the Department to waive the penalty on the ground that the taxpayer “provided a bona fide interpretation of controlling authority for the overwhelming majority of the assessment” and because it “made a good faith attempt to self-assess use tax on all subject items.”

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as “the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.” Negligence is to “be determined on a case-by-case basis according to the facts and circumstances of each taxpayer.” *Id.*

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on “reasonable cause and not due to willful neglect.” Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish “reasonable cause,” the taxpayer must demonstrate that it “exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed....”

The Department finds no indication that the ten percent negligence penalty was assessed. To the contrary, the audit specifically recommended that imposition of the penalty was unwarranted. Therefore, the taxpayer's protest as to the issue of penalties is rendered moot.

### FINDING

Taxpayer's protest is denied.

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## DEPARTMENT OF STATE REVENUE

0120000137.LOF

### LETTER OF FINDINGS NUMBER: 00-0137

#### Adjusted Gross Income Tax For Years 1994, 1995, 1996, and 1997

**NOTICE:** Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

### ISSUES

#### I. Adjusted Gross Income Tax – Loss Flow Through from S-corporation

**Authority:** 45 IAC 3.1-1-6; IRC 465

Taxpayers protest the denial of the flow through of their losses from their S-corporation to their individual return.

#### STATEMENT OF FACTS

Taxpayers are individuals who are eligible to file a joint income tax return for both federal and state income tax purposes. Taxpayers are the sole shareholders of two businesses, one of which is a retail sales outlet that was organized as a sub chapter S Corporation and sustained significant net operating losses which taxpayers flowed through to their individual return. The audit disallowed some of the losses inasmuch as the taxpayer was unable to provide all records necessary to accurately determine the amounts each shareholder had at-risk in the corporation. A timely protest was filed, with this letter of finding resulting.

#### I. Adjusted Gross Income Tax – Adequate Documentation

#### DISCUSSION

Taxpayer received an adjustment to their returns for the years at issue based on the Department's denial of their claim for losses flowing through to their individual return from their S-Corporation. The Taxpayer and Department agree that the issue centers on taxpayer's risk of loss for the S-Corporation losses and their flow through as outlined in 45 IAC 3.1-1-6. Specifically, both parties

agree that IRC Section 465 specifies that a shareholder may only deduct losses to the extent that shareholder is at risk. While S-corporation shareholders are generally not at-risk for amounts borrowed by the S-corporation from third parties, S-corporation shareholders are at-risk for amounts personally borrowed from a bank and then loaned or contributed to the corporation. The Department and taxpayer agree that the money was actually a monetary loss by the S-corporation and thus, potentially, qualifies as a loss to flow through to the taxpayer.

With this understanding, the issue becomes a burden of proof. While there is no dispute as to the loss amount for the S-corporation, IRC 465(b)(4) provides that a taxpayer is not at risk for amounts lost that are protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements. Taxpayer has now provided evidence to the effect that the loss did directly impact the shareholders and that they were not protected by the arrangements outlined in IRC 465(b)(4). Consequently, taxpayer protest is sustained.

**FINDING**

Taxpayer's protest is sustained.

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**DEPARTMENT OF STATE REVENUE**

0420000439.LOF

**LETTER OF FINDINGS NUMBER: 00-0439**

**Sales Tax**

**Calendar Years 1997, 1998, and 1999**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

**STATEMENT OF FACTS**

The negligence penalty was assessed on a sales tax assessment resulting from a Department audit conducted for the calendar years 1997, 1998, and 1999.

The taxpayer sells and services computer storage devices. The taxpayer ships equipment into Indiana. The taxpayer also leases equipment to Indiana customers and maintains a small amount of inventory at the customer's location. On October 9, 1997, the taxpayer filed for Chapter 11 Bankruptcy protection. The taxpayer continues to operate.

**I. Tax Administration – Penalty**

**DISCUSSION**

The taxpayer requests the penalty assessment be waived since the taxpayer has always filed on a timely basis and the penalty is a hardship for a small company.

The Department points out the error in the audit is approximately 25% of the total sales tax for the audit period. The Department considers 25% to be a material error.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The Department finds the taxpayer did not act with reasonable care in that the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

**FINDING**

The taxpayer's penalty protest is denied.

**DEPARTMENT OF STATE REVENUE**

0220000441.LOF

**LETTER OF FINDINGS NUMBER: 00-0441**

**Adjusted Gross Income Tax  
For Tax Years 1996 through 1998**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Adjusted Gross Income Tax – Method of Calculation**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor's decision that the partnership distribution should be treated as allocated income for Indiana adjusted gross income tax purposes.

**II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**Authority:** *Hunt Corporation v. Indiana Dept. of State Revenue*, 709 N.E.2d 766 (Ind. Tax Ct. 1999); IC 6-3-2-2; 45 IAC 3.1-1-153

Taxpayer protests the auditor's determination that income from the sale of contracts, received as a part of taxpayer's distributive share of partnership income, was allocable to Indiana for adjusted gross income tax purposes.

**III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor's determination that interest income, received from taxpayer's distributive share of partnership income earned from the long-term investment of the partnership's excess cash, was allocable to Indiana for adjusted gross income tax purposes.

**STATEMENT OF FACTS**

Taxpayer is a partner in an out-of-state partnership that is in the business of providing consumer information (hereinafter, "Partnership"). The Partnership was formed to operate debt collection and credit verification functions. The Partnership is affiliated with a large corporation headquartered in California. Taxpayer asserts that it holds its interest in the Partnership as an investment. All of taxpayer's income is from the Partnership through a distributive share.

The Department of Revenue conducted an audit for the years in question and issued various tax assessments against taxpayer. Additional facts will be supplied as necessary for discussion.

**I. Adjusted Gross Income Tax – Method of Calculation**

**DISCUSSION**

In its income tax return, Taxpayer apportioned its partnership income based upon its percentage of ownership of the Partnership as related to the net income. However, citing 45 IAC 3.1-1-153, the auditor determined that partnership distributions should be treated as allocated income for Indiana adjusted gross income tax purposes. As such, all of the net income that taxpayer apportioned was removed from the audit report; and, only the allocated distributive share of the partnership income attributable to Indiana was included as being subject to tax. Taxpayer disagrees with the auditor's method.

Upon completion of its audit of taxpayer, the auditor determined that taxpayer and the Partnership were non-unitary. Taxpayer offered no evidence to refute the auditor's determination. 45 IAC 3.1-1-153 dictates that when a corporate partner and its corporate partnership are non-unitary, the corporate partner's share of the partnership's business income attributable to Indiana is determined by applying a three-factor formula consisting of the property, payroll, and sales of the Partnership. The apportioned amount is then allocated to Indiana for adjusted gross income tax purposes. The auditor followed the mandates of the regulation in determining the amount of tax taxpayer owed on its distributive share of the Partnership income. No error occurred here.

**FINDING**

Taxpayer's protest is denied.

**II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**DISCUSSION**

Taxpayer, a corporate partner of a corporate partnership, has characterized the income from the sale of consumer contracts, received as part of taxpayer's distributive share of partnership income, as non-business income. According to taxpayer, the contracts sold were located throughout the East, the South, and the Middle-West regions of the United States. There were no contracts located, or any services performed in Indiana. Taxpayer is adamant that the activities of the sale of the contracts did not occur in Indiana, and did not occur in the regular course of taxpayer's business, *i.e.*, a shareholder of the Partnership. According to taxpayer, the sale of the contracts was for investment purposes only, and not an integral part of taxpayer's regular business. Therefore, taxpayer requests that the proceeds from the sale of the contracts be classified as non-business income allocable to California, the state in which taxpayer is domiciled.

Corporate partners are taxed on their distributive share of the partnership's Indiana source income. The determination of the

source of a partnership's income differs based upon whether or not the partnership maintains a unitary relationship with the corporate partner. The relevant regulation for determining the source of a partnership's income is 45 IAC 3.1-1-153.

45 IAC 3.1-1-153(b) states in relevant part that:

[i]f the corporate partner's activities and the partnership's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the corporate partner and its share of the partnership's factors...

45 IAC 3.1-1-153(c) provides in relevant part that:

[i]f the corporate partner's activities and the partnership's activities *do not* constitute a unitary business under established standards, disregarding ownership requirements, the corporate partner's share of the partnership income attributable to Indiana shall be determined as follows:

(1) If the partnership derives business income from sources within and without Indiana, the business income derived from sources within Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the *partnership*. (*Emphasis Added*).

The effect of the regulation is that partnership income is apportioned only once; and, that apportionment may take place at either the corporate partner or the corporate partnership level depending on whether or not a unitary relationship exists between the corporate partner and the partnership.

On its face, regulation 45 IAC 3.1-1-153 does not appear to address whether or not a partnership may have non-business income at either the corporate partner or corporate partnership level. However, regardless of the relationship between the corporate partner and the corporate partnership, it is clear that the regulation refers to the apportionment of "business income." Nevertheless, to clarify the regulation and how it deals with non-business income it is necessary to examine the reasoning found in the Tax Court case *The Hunt Corp. v. Department of State Revenue*, 709 N.E.2d 766 (Ind. Tax 1999).

In *Hunt*, the Court determined that a corporate partner's income from a corporate partnership should be determined by apportionment of that income at the corporate partner level when the corporate partner and the corporate partnership enjoy a unitary relationship. *Id.* At 778. The Court made its determination based on the application of IC 6-3-2-2, the general provision that deals with how all of a corporate taxpayer's adjusted gross income is attributed by way of allocation and apportionment rules. Although the Court found that 45 IAC 3.1-1-153 was not applicable to the years at issue, the Court discussed the regulation at length and appeared to endorse it as a reasonable interpretation of the applicability of IC 6-3-2-2 to corporate partnerships. *Hunt*, 709 N.E.2d at 777. After determining that IC 6-3-2-2 applied to corporate partnerships, the Court in *Hunt* stated:

*If the income from the partnerships constitutes business income (i.e., if the affiliated group and the partnerships are engaged in a unitary business), under section 6-3-2-2, all of that income would be subject to apportionment based on an application of the affiliated group's property, payroll, and sales factors. If the income from the partnerships constitutes non-business income for the affiliated group (i.e., if the affiliated group and the partnerships are not engaged in a unitary business), that income would be allocated to a particular jurisdiction. (Emphasis Added).*

*Id.* at 776.

The Court's reasoning in *Hunt* is clear: all of a corporate partner's income from a corporate partnership that enjoys a unitary relationship with that partner is business income; all of a corporate partner's income from a partnership with a non-unitary relationship is non-business income. Therefore, applying the reasoning in *Hunt*, there is no "business versus non-business" determination at the partnership level regardless of the relationship between the partner and the partnership.

In the instant case, it was determined that taxpayer and the Partnership did not enjoy a unitary relationship. However, while the income from a non-unitary partnership will be classified as non-business income, it is important to note that said income will not necessarily be allocated to a single state. When the non-business income is derived from sources within and without Indiana, the allocation is based on an apportionment of all partnership income at the partnership level. Although 45 IAC 3.1-1-153(c)(1) uses the term "business income" to describe the partnership income to be allocated through a factor apportionment, this description does not result in a characterization of that income as "business income" that flows through to the corporate partner. Such an interpretation would contradict the Court's findings in *Hunt*. See *Hunt*, 709 N.E.2d at 776. Further, the Court in *Hunt* comments in footnote number twenty-eight, that allocation of the income through a factor apportionment is necessary because it ensures that Indiana will be able to receive its fair share of income from a partnership doing business in Indiana. *Id.* at 777.

**FINDING**

Taxpayer's protest is denied. The Department did not err in calculating the apportionment percentage of the Partnership income earned in Indiana, and allocating said amount to Indiana for adjusted gross income tax purposes.

**III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

**DISCUSSION**

Taxpayer contends that its distributive share of the interest income derived from the Partnership's long-term investment of excess cash is non-business income for the purpose of computing Indiana Adjusted Gross Income Tax. Taxpayer argues that the

interest income arises from passive investments unrelated to the taxpayer's primary business. The auditor found that in 1996 and 1997, taxpayer treated its distributive share of interest income from the Partnership as business income. In 1998, however, taxpayer treated the interest income as non-business income and allocated said income to California. The auditor determined that taxpayer was clearly not unitary with the partnership, therefore pursuant to 45 IAC 3.1-1-153(c)(1) the auditor allocated the Indiana share of the income to the taxpayer.

Pursuant to 45 IAC 3.1-1-153(c) all of the partnership's income is required to be allocated based on the three-factor formula therein. As the partnership is not the taxpayer, the business non-business analysis takes place at the partnership's distribution to the taxpayer level.

#### FINDING

Taxpayer's protest is denied.

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### DEPARTMENT OF STATE REVENUE

0220000442.LOF

#### LETTER OF FINDINGS NUMBER: 00-0442

#### Adjusted Gross Income Tax For Tax Years 1996 through 1998

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

#### ISSUE

##### **I. Adjusted Gross Income Tax – Method of Calculation**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor's decision that the partnership distribution should be treated as allocated income for Indiana adjusted gross income tax purposes.

##### **II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**Authority:** *Hunt Corporation v. Indiana Dept. of State Revenue*, 709 N.E.2d 766 (Ind. Tax Ct. 1999); IC 6-3-2-2; 45 IAC 3.1-1-153

Taxpayer protests the auditor's determination that income from the sale of contracts, received as a part of taxpayer's distributive share of partnership income, was allocable to Indiana for adjusted gross income tax purposes.

##### **III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor's determination that interest income, received from taxpayer's distributive share of partnership income earned from the long-term investment of the partnership's excess cash, was allocable to Indiana for adjusted gross income tax purposes.

#### STATEMENT OF FACTS

Taxpayer is a partner in an out-of-state partnership that is in the business of providing consumer information (hereinafter, "Partnership"). The Partnership was formed to operate debt collection and credit verification functions. The Partnership is affiliated with a large corporation headquartered in California. Taxpayer was involved in the business of debt collection prior to becoming a partner in the Partnership. Taxpayer asserts that it holds its interest in the Partnership as an investment. All of taxpayer's income is from the Partnership through a distributive share.

The Department of Revenue conducted an audit for the years in question and issued various tax assessments against taxpayer. Additional facts will be supplied as necessary for discussion.

##### **I. Adjusted Gross Income Tax – Method of Calculation**

#### DISCUSSION

In its income tax return, Taxpayer apportioned its partnership income based upon its percentage of ownership of the Partnership as related to the net income. However, citing 45 IAC 3.1-1-153, the auditor determined that partnership distributions should be treated as allocated income for Indiana adjusted gross income tax purposes. As such, all of the net income that taxpayer apportioned was removed from the audit report; and, only the allocated distributive share of the partnership income attributable to Indiana was included as being subject to tax. Taxpayer disagrees with the auditor's method.

Upon completion of its audit of taxpayer, the auditor determined that taxpayer and the Partnership were non-unitary. Taxpayer offered no evidence to refute the auditor's determination. 45 IAC 3.1-1-153 dictates that when a corporate partner and its corporate partnership are non-unitary, the corporate partner's share of the partnership's business income attributable to Indiana is determined

by applying a three-factor formula consisting of the property, payroll, and sales of the Partnership. The apportioned amount is then allocated to Indiana for adjusted gross income tax purposes. The auditor followed the mandates of the regulation in determining the amount of tax taxpayer owed on its distributive share of the Partnership income. No error occurred here.

**FINDING**

Taxpayer's protest is denied.

**II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**DISCUSSION**

Taxpayer, a corporate partner of a corporate partnership, has characterized the income from the sale of consumer contracts, received as part of taxpayer's distributive share of partnership income, as non-business income. According to taxpayer, the contracts sold were located throughout the East, the South, and the Middle-West regions of the United States. There were no contracts located, or any services performed in Indiana. Taxpayer is adamant that the activities of the sale of the contracts did not occur in Indiana, and did not occur in the regular course of taxpayer's business, *i.e.*, a shareholder of the Partnership. According to taxpayer, the sale of the contracts was for investment purposes only, and not an integral part of taxpayer's regular business. Therefore, taxpayer requests that the proceeds from the sale of the contracts be classified as non-business income allocable to California, the state in which taxpayer is domiciled.

Corporate partners are taxed on their distributive share of the partnership's Indiana source income. The determination of the source of a partnership's income differs based upon whether or not the partnership maintains a unitary relationship with the corporate partner. The relevant regulation for determining the source of a partnership's income is 45 IAC 3.1-1-153.

45 IAC 3.1-1-153(b) states in relevant part that:

[i]f the corporate partner's activities and the partnership's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the corporate partner and its share of the partnership's factors...

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[i]f the corporate partner's activities and the partnership's activities *do not* constitute a unitary business under established standards, disregarding ownership requirements, the corporate partner's share of the partnership income attributable to Indiana shall be determined as follows:

- (1) If the partnership derives business income from sources within and without Indiana, the business income derived from sources within Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the *partnership*. (*Emphasis Added*).

The effect of the regulation is that partnership income is apportioned only once; and, that apportionment may take place at either the corporate partner or the corporate partnership level depending on whether or not a unitary relationship exists between the corporate partner and the partnership.

On its face, regulation 45 IAC 3.1-1-153 does not appear to address whether or not a partnership may have non-business income at either the corporate partner or corporate partnership level. However, regardless of the relationship between the corporate partner and the corporate partnership, it is clear that the regulation refers to the apportionment of "business income." Nevertheless, to clarify the regulation and how it deals with non-business income it is necessary to examine the reasoning found in the Tax Court case *The Hunt Corp. v. Department of State Revenue*, 709 N.E.2d 766 (Ind. Tax 1999).

In *Hunt*, the Court determined that a corporate partner's income from a corporate partnership should be determined by apportionment of that income at the corporate partner level when the corporate partner and the corporate partnership enjoy a unitary relationship. *Id.* At 778. The Court made its determination based on the application of IC 6-3-2-2, the general provision that deals with how all of a corporate taxpayer's adjusted gross income is attributed by way of allocation and apportionment rules. Although the Court found that 45 IAC 3.1-1-153 was not applicable to the years at issue, the Court discussed the regulation at length and appeared to endorse it as a reasonable interpretation of the applicability of IC 6-3-2-2 to corporate partnerships. *Hunt*, 709 N.E.2d at 777. After determining that IC 6-3-2-2 applied to corporate partnerships, the Court in *Hunt* stated:

*If the income from the partnerships constitutes business income (i.e., if the affiliated group and the partnerships are engaged in a unitary business), under section 6-3-2-2, all of that income would be subject to apportionment based on an application of the affiliated group's property, payroll, and sales factors. If the income from the partnerships constitutes non-business income for the affiliated group (i.e., if the affiliated group and the partnerships are not engaged in a unitary business), that income would be allocated to a particular jurisdiction. (Emphasis Added).*

*Id.* at 776.

The Court's reasoning in *Hunt* is clear: all of a corporate partner's income from a corporate partnership that enjoys a unitary relationship with that partner is business income; all of a corporate partner's income from a partnership with a non-unitary relationship is non-business income. Therefore, applying the reasoning in *Hunt*, there is no "business versus non-business" determination at the partnership level regardless of the relationship between the partner and the partnership.

In the instant case, it was determined that taxpayer and the Partnership did not enjoy a unitary relationship. However, while the income from a non-unitary partnership will be classified as non-business income, it is important to note that said income will not necessarily be allocated to a single state. When the non-business income is derived from sources within and without Indiana, the allocation is based on an apportionment of all partnership income at the partnership level. Although 45 IAC 3.1-1-153(c)(1) uses the term “business income” to describe the partnership income to be allocated through a factor apportionment, this description does not result in a characterization of that income as “business income” that flows through to the corporate partner. Such an interpretation would contradict the Court’s findings in *Hunt*. See *Hunt*, 709 N.E.2d at 776. Further, the Court in *Hunt* comments in footnote number twenty-eight, that allocation of the income through a factor apportionment is necessary because it ensures that Indiana will be able to receive its fair share of income from a partnership doing business in Indiana. *Id.* at 777.

#### **FINDING**

Taxpayer’s protest is denied. The Department did not err in calculating the apportionment percentage of the Partnership income earned in Indiana, and allocating said amount to Indiana for adjusted gross income tax purposes.

### **III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

#### **DISCUSSION**

Taxpayer contends that its distributive share of the interest income derived from the Partnership’s long-term investment of excess cash is non-business income for the purpose of computing Indiana Adjusted Gross Income Tax. Taxpayer argues that the interest income arises from passive investments unrelated to the taxpayer’s primary business. The auditor found that in 1996 and 1997, taxpayer treated its distributive share of interest income from the Partnership as business income. In 1998, however, taxpayer treated the interest income as non-business income and allocated said income to California. The auditor determined that taxpayer was clearly not unitary with the partnership, therefore pursuant to 45 IAC 3.1-1-153(c)(1) the auditor allocated the Indiana share of the income to the taxpayer.

Pursuant to 45 IAC 3.1-1-153(c) all of the partnership’s income is required to be allocated based on the three-factor formula therein. As the partnership is not the taxpayer, the business non-business analysis takes place at the partnership’s distribution to the taxpayer level.

#### **FINDING**

Taxpayer’s protest is denied.

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## **DEPARTMENT OF STATE REVENUE**

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### **LETTER OF FINDINGS NUMBER: 00-0443**

#### **Adjusted Gross Income Tax For Tax Years 1996 through 1998**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

#### **ISSUE**

### **I. Adjusted Gross Income Tax – Method of Calculation**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor’s decision that the partnership distribution should be treated as allocated income for Indiana adjusted gross income tax purposes.

### **II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**Authority:** *Hunt Corporation v. Indiana Dept. of State Revenue*, 709 N.E.2d 766 (Ind. Tax Ct. 1999); IC 6-3-2-2; 45 IAC 3.1-1-153

Taxpayer protests the auditor’s determination that income from the sale of contracts, received as a part of taxpayer’s distributive share of partnership income, was allocable to Indiana for adjusted gross income tax purposes.

### **III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

**Authority:** 45 IAC 3.1-1-153

Taxpayer protests the auditor’s determination that interest income, received from taxpayer’s distributive share of partnership income earned from the long-term investment of the partnership’s excess cash, was allocable to Indiana for adjusted gross income tax purposes.

#### **STATEMENT OF FACTS**

Taxpayer is a partner in an out-of-state partnership that is in the business of providing consumer information (hereinafter, “Partnership”). The Partnership was formed to operate debt collection and credit verification functions. The Partnership is affiliated

with a large corporation headquartered in California. Taxpayer asserts that it holds its interest in the Partnership as an investment. All of taxpayer's income is from the Partnership through a distributive share.

The Department of Revenue conducted an audit for the years in question and issued various tax assessments against taxpayer. Additional facts will be supplied as necessary for discussion.

**I. Adjusted Gross Income Tax – Method of Calculation**

**DISCUSSION**

In its income tax return, Taxpayer apportioned its partnership income based upon its percentage of ownership of the Partnership as related to the net income. However, citing 45 IAC 3.1-1-153, the auditor determined that partnership distributions should be treated as allocated income for Indiana adjusted gross income tax purposes. As such, all of the net income that taxpayer apportioned was removed from the audit report; and, only the allocated distributive share of the partnership income attributable to Indiana was included as being subject to tax. Taxpayer disagrees with the auditor's method.

Upon completion of its audit of taxpayer, the auditor determined that taxpayer and the Partnership were non-unitary. Taxpayer offered no evidence to refute the auditor's determination. 45 IAC 3.1-1-153 dictates that when a corporate partner and its corporate partnership are non-unitary, the corporate partner's share of the partnership's business income attributable to Indiana is determined by applying a three-factor formula consisting of the property, payroll, and sales of the Partnership. The apportioned amount is then allocated to Indiana for adjusted gross income tax purposes. The auditor followed the mandates of the regulation in determining the amount of tax taxpayer owed on its distributive share of the Partnership income. No error occurred here.

**FINDING**

Taxpayer's protest is denied.

**II. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Sale of Contracts**

**DISCUSSION**

Taxpayer, a corporate partner of a corporate partnership, has characterized the income from the sale of consumer contracts, received as part of taxpayer's distributive share of partnership income, as non-business income. According to taxpayer, the contracts sold were located throughout the East, the South, and the Middle-West regions of the United States. There were no contracts located, or any services performed in Indiana. Taxpayer is adamant that the activities of the sale of the contracts did not occur in Indiana, and did not occur in the regular course of taxpayer's business, *i.e.*, a shareholder of the Partnership. According to taxpayer, the sale of the contracts was for investment purposes only, and not an integral part of taxpayer's regular business. Therefore, taxpayer requests that the proceeds from the sale of the contracts be classified as non-business income allocable to California, the state in which taxpayer is domiciled.

Corporate partners are taxed on their distributive share of the partnership's Indiana source income. The determination of the source of a partnership's income differs based upon whether or not the partnership maintains a unitary relationship with the corporate partner. The relevant regulation for determining the source of a partnership's income is 45 IAC 3.1-1-153.

45 IAC 3.1-1-153(b) states in relevant part that:

[i]f the corporate partner's activities and the partnership's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the corporate partner and its share of the partnership's factors...

45 IAC 3.1-1-153(c) provides in relevant part that:

[i]f the corporate partner's activities and the partnership's activities *do not* constitute a unitary business under established standards, disregarding ownership requirements, the corporate partner's share of the partnership income attributable to Indiana shall be determined as follows:

- (1) If the partnership derives business income from sources within and without Indiana, the business income derived from sources within Indiana shall be determined by a three (3) factor formula consisting of property, payroll, and sales of the partnership. (*Emphasis Added*).

The effect of the regulation is that partnership income is apportioned only once; and, that apportionment may take place at either the corporate partner or the corporate partnership level depending on whether or not a unitary relationship exists between the corporate partner and the partnership.

On its face, regulation 45 IAC 3.1-1-153 does not appear to address whether or not a partnership may have non-business income at either the corporate partner or corporate partnership level. However, regardless of the relationship between the corporate partner and the corporate partnership, it is clear that the regulation refers to the apportionment of "business income." Nevertheless, to clarify the regulation and how it deals with non-business income it is necessary to examine the reasoning found in the Tax Court case *The Hunt Corp. v. Department of State Revenue*, 709 N.E.2d 766 (Ind. Tax 1999).

In *Hunt*, the Court determined that a corporate partner's income from a corporate partnership should be determined by apportionment of that income at the corporate partner level when the corporate partner and the corporate partnership enjoy a unitary relationship. *Id.* At 778. The Court made its determination based on the application of IC 6-3-2-2, the general provision that deals

with how all of a corporate taxpayer's adjusted gross income is attributed by way of allocation and apportionment rules. Although the Court found that 45 IAC 3.1-1-153 was not applicable to the years at issue, the Court discussed the regulation at length and appeared to endorse it as a reasonable interpretation of the applicability of IC 6-3-2-2 to corporate partnerships. *Hunt*, 709 N.E.2d at 777. After determining that IC 6-3-2-2 applied to corporate partnerships, the Court in *Hunt* stated:

*If the income from the partnerships constitutes business income (i.e., if the affiliated group and the partnerships are engaged in a unitary business), under section 6-3-2-2, all of that income would be subject to apportionment based on an application of the affiliated group's property, payroll, and sales factors. If the income from the partnerships constitutes non-business income for the affiliated group (i.e., if the affiliated group and the partnerships are not engaged in a unitary business), that income would be allocated to a particular jurisdiction. (Emphasis Added).*

*Id.* at 776.

The Court's reasoning in *Hunt* is clear: all of a corporate partner's income from a corporate partnership that enjoys a unitary relationship with that partner is business income; all of a corporate partner's income from a partnership with a non-unitary relationship is non-business income. Therefore, applying the reasoning in *Hunt*, there is no "business versus non-business" determination at the partnership level regardless of the relationship between the partner and the partnership.

In the instant case, it was determined that taxpayer and the Partnership did not enjoy a unitary relationship. However, while the income from a non-unitary partnership will be classified as non-business income, it is important to note that said income will not necessarily be allocated to a single state. When the non-business income is derived from sources within and without Indiana, the allocation is based on an apportionment of all partnership income at the partnership level. Although 45 IAC 3.1-1-153(c)(1) uses the term "business income" to describe the partnership income to be allocated through a factor apportionment, this description does not result in a characterization of that income as "business income" that flows through to the corporate partner. Such an interpretation would contradict the Court's findings in *Hunt*. See *Hunt*, 709 N.E.2d at 776. Further, the Court in *Hunt* comments in footnote number twenty-eight, that allocation of the income through a factor apportionment is necessary because it ensures that Indiana will be able to receive its fair share of income from a partnership doing business in Indiana. *Id.* at 777.

**FINDING**

Taxpayer's protest is denied. The Department did not err in calculating the apportionment percentage of the Partnership income earned in Indiana, and allocating said amount to Indiana for adjusted gross income tax purposes.

**III. Adjusted Gross Income Tax – Allocation of Corporate Partnership Distributive Share: Interest Income**

**DISCUSSION**

Taxpayer contends that its distributive share of the interest income derived from the Partnership's long-term investment of excess cash is non-business income for the purpose of computing Indiana Adjusted Gross Income Tax. Taxpayer argues that the interest income arises from passive investments unrelated to the taxpayer's primary business. The auditor found that in 1996 and 1997, taxpayer treated its distributive share of interest income from the Partnership as business income. In 1998, however, taxpayer treated the interest income as non-business income and allocated said income to California. The auditor determined that taxpayer was clearly not unitary with the partnership, therefore pursuant to 45 IAC 3.1-1-153(c)(1) the auditor allocated the Indiana share of the income to the taxpayer.

Pursuant to 45 IAC 3.1-1-153(c) all of the partnership's income is required to be allocated based on the three-factor formula therein. As the partnership is not the taxpayer, the business non-business analysis takes place at the partnership's distribution to the taxpayer level.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0120010191.LOF

**LETTER OF FINDINGS NUMBER: 01-0191**

**Adjusted Gross Income Tax**

**For the Years 1990**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Adjusted Gross Income Tax – Imposition**

**Authority:** IC 6-3-2-1, IC 6-8.1-5-1(b)

The taxpayers protest the imposition of the Indiana adjusted gross income tax.

**STATEMENT OF FACTS**

The taxpayers are a husband and wife who are Indiana residents but winter in Florida. They owned rental property in Indiana and an 18-room motel. The taxpayers file as sole proprietors for federal income tax purposes. They did not file Indiana adjusted gross income tax returns throughout the tax period. After an investigation, the Indiana Department of Revenue, hereinafter referred to as the "department," determined the taxpayers' Indiana adjusted gross income tax liability based upon the taxpayers' federal individual income tax returns. The department then assessed adjusted gross income tax, penalty, and interest. The taxpayers protested that assessment and a telephone hearing was held.

**DISCUSSION**

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1.

The taxpayers contend that when the department assessed adjusted gross income tax, interest and penalty pursuant to the investigation, it erred in determining the taxpayers' expenses, depreciation, and losses from abandoned property.

All assessments made by the department are presumed to be correct. Taxpayers bear the burden of proving that an assessment is incorrect. IC 6-8.1-5-1 (b). In this case, the taxpayers' representative submitted a spreadsheet showing what the taxpayers' assert would be the computation of the correct tax liability. That spreadsheet lumped depreciation, losses from abandoned property, and expenses in the "expenses" line. On January 29, 2003, the department requested the submission of documentation concerning the purchase price of the properties so that it could audit the figures representing depreciation and losses from abandoned property. That information was not submitted. Without the purchase prices of the various properties, the department cannot determine if the taxpayers' proposal is correct.

The taxpayers have failed to sustain their burden of showing that the assessment is incorrect.

**FINDING**

The taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0120010192.LOF

**LETTER OF FINDINGS NUMBER: 01-0192**

**Adjusted Gross Income Tax**

**For the Years 1991-1998**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Adjusted Gross Income Tax – Imposition**

**Authority:** IC 6-3-2-1, IC 6-8.1-5-1(b)

The taxpayers protest the imposition of the Indiana adjusted gross income tax.

**STATEMENT OF FACTS**

The taxpayers are a husband and wife who are Indiana residents but winter in Florida. They owned rental property in Indiana and an 18-room motel. The taxpayers file as sole proprietors for federal income tax purposes. They did not file Indiana adjusted gross income tax returns throughout the tax period. After an investigation, the Indiana Department of Revenue, hereinafter referred to as the "department," determined the taxpayers' Indiana adjusted gross income tax liability based upon the taxpayers' federal individual income tax returns. The department then assessed adjusted gross income tax, penalty, and interest. The taxpayers protested that assessment and a telephone hearing was held.

**DISCUSSION**

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1.

The taxpayers contend that when the department assessed adjusted gross income tax, interest and penalty pursuant to the investigation, it erred in determining the taxpayers' expenses, depreciation, and losses from abandoned property.

All assessments made by the department are presumed to be correct. Taxpayers bear the burden of proving that an assessment is incorrect. IC 6-8.1-5-1 (b). In this case, the taxpayers' representative submitted a spreadsheet showing what the taxpayers' assert would be the computation of the correct tax liability. That spreadsheet lumped depreciation, losses from abandoned property, and expenses in the "expenses" line. On January 29, 2003, the department requested the submission of documentation concerning the purchase price of the properties so that it could audit the figures representing depreciation and losses from abandoned property. That information was not submitted. Without the purchase prices of the various properties, the department cannot determine if the taxpayers' proposal is correct.

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**Nonrule Policy Documents**

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The taxpayers have failed to sustain their burden of showing that the assessment is incorrect.

**FINDING**

The taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0120010326.LOF

**LETTER OF FINDINGS NUMBER: 01-0326**

**Individual Income Tax  
Calendar Year 2000**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Individual Income Tax – Residency**

**Authority:** IC 6-3-4-1; IC 6-3-2-12; IC 6-8.1-5-1

Taxpayer protests the assessment.

**STATEMENT OF FACTS**

Taxpayer filed an IT-40 for calendar year 2000 but failed to remit the amount due shown on his return. Taxpayer states he has always paid his taxes. Taxpayer's mailing address is in Virginia. Taxpayer received a W-2 from a Florida company that names Kosciusko as the locality where the taxpayer earned its income. Taxpayer's tax return indicates he lived in Kosciusko County, and taxpayer's IT-40 was prepared as an Indiana resident. Taxpayer argues that he has no state of domicile and is in the process of obtaining an attorney that promised to make him an international person not subject to tax in the United States. Taxpayer's return also indicates that he owned or leased a vehicle registered with the Indiana Bureau of Motor Vehicles. Taxpayer has an Indiana Driver's License.

Taxpayer filed its return with a tax balance due of \$1,697.

**I. Individual Income Tax – Residency**

**DISCUSSION**

Taxpayer states that he is not subject to tax in Indiana because he was not a resident. Taxpayer filed a Full Year Resident return (IT-40) for 2000 with a balance due. Taxpayer has not provided a copy of a return filed in another state.

Taxpayer remitted no tax by the original due date of the return. Taxpayer states he is not a resident of any state since he is a Merchant Marine. Taxpayer's homeport is Newport News, Virginia. Taxpayer, however, registered his automobile with Indiana and has an Indiana driver's license. Taxpayer occasionally visits his mother in Indiana.

The Taxpayer signed and sent in a 2000 IT-40. "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC 6-8.1-5-1(b).

Taxpayer has not provided any evidence to overturn the Department's assessment.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

1820020306.LOF

**LETTER OF FINDINGS NUMBER: 02-0306**

**Financial Institutions Tax  
For the Tax Years 1993 through 1998**

**NOTICE:** Under 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Constitutionality of the Financial Institutions Tax**

**Authority:** U.S. Const. art. I, § 8; Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1974); IC 6-5.5-1-12, 13; IC 6-5.5-1-17(a); IC 6-5.5-2-1(a); IC 6-5.5-2-2; IC 6-5.5-2-3; IC 6-5.5-3-1(6)

Taxpayer argues that, as an out-of-state entity with no physical presence within Indiana, the assessment of Financial Institutions Tax (FIT) is violative of the Commerce Clause.

**II. Computational Errors**

**Authority:** IC 6-8.1-5-1(b)

Taxpayer challenges the calculation of FIT on the ground that the audit made computational errors resulting in an over-assessment of the amount of tax due.

**III. Abatement of the Ten Percent Negligence Penalty**

**Authority:** IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer requests that the Department of Revenue (Department) exercise its discretion to abate the ten percent negligence penalty imposed at the conclusion of the audit examination.

**STATEMENT OF FACTS**

Taxpayer consists of a group of affiliated companies engaged in the business of offering various credit card services. Taxpayer receives income from Indiana customers based on the performance of those services. Taxpayer maintains its headquarters at an out-of-state location. One of taxpayer’s affiliates was engaged in the business of extending loans on personal and real property within Indiana and had previously paid Indiana corporate income taxes.

The Department conducted an audit review of taxpayer’s business records. The Department concluded that taxpayer was conducting the business of a financial institution within the state and assessed FIT accordingly. The taxpayer disagreed with the Department’s conclusion and submitted a protest to that effect. An administrative hearing was held during which taxpayer explained the basis for its protest. This Letter of Findings follows.

**DISCUSSION**

**I. Constitutionality of the Financial Institutions Tax**

Pursuant to the audit’s examination of taxpayer’s business records, the Department concluded taxpayer was engaged in the business of a financial institution within Indiana and was subject to the FIT. Taxpayer challenges this conclusion on the ground that it has no “substantial nexus” with Indiana and that imposition of the tax offends the Commerce Clause. (U.S. Const. art. I, § 8).

Within Indiana, “There is imposed on each taxpayer a franchise tax measured by the taxpayer’s adjusted gross income or apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana.” IC 6-5.5-2-1(a).

For purposes of the FIT, a “[t]axpayer” means a corporation that is transacting the business of a financial institution, including any of the following:

- (1) A holding company.
- (2) A regulated financial corporation.
- (3) A subsidiary of a holding company or regulated financial corporation.
- (4) Any other corporation organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government that is carrying on the business of a financial institution.” IC 6-5.5-1-17(a).

The FIT is imposed on both “nonresident taxpayers” and “resident taxpayers” transacting business within this state. IC 6-5.5-1-12, 13. The statute defines a “nonresident taxpayer” as “a taxpayer that (1) is transacting business within Indiana as provided in IC 6-5.5-3; and (2) has its commercial domicile outside Indiana.” A resident taxpayer, not filing a combined return, determines its FIT liability based on the resident taxpayer’s adjusted gross income from whatever source derived. IC 6-5.5-2-2. In contrast, a nonresident taxpayer determines its FIT liability based on its apportioned income consisting of the taxpayer’s adjusted gross income “multiplied by the quotient of (1) the taxpayer’s total receipts attributable to transacting business in Indiana... divided by (2) the taxpayer’s total receipts from transacting business in all jurisdictions...” IC 6-5.5-2-3.

The FIT definition of “transacting business” within this state includes the activities of a company which “regularly engages in transactions with customers in Indiana that involve intangible property, including loans... [that] result in receipts flowing to the taxpayer from within Indiana.” IC 6-5.5-3-1(6).

Taxpayer challenges the FIT assessment on the ground that it does not have a substantial nexus with Indiana. In *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1974), the Supreme Court stated that a tax will not be deemed to interfere with interstate commerce when it is “applied to an activity with a substantial nexus within the taxing State, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the state.” *Id.* at 279. Taxpayer’s protest is based on the assertion that it does not have the minimum connection with the state necessary to establish the requisite “substantial nexus.”

To the extent taxpayer maintains that Indiana’s FIT is – on its face – inapplicable, the Department must disagree. Under IC 6-5.5-3-1, IC 6-5.5-1-12, and IC 6-5.5-1-17, taxpayer falls squarely within the definition of a non-resident entity conducting the business of a financial institution within this state; consequently, taxpayer is liable for FIT on the income derived from sources within Indiana.

To the extent taxpayer challenges the constitutionality of the FIT as applied to non-resident businesses having only an economic

nexus with Indiana, the Department declines to address the question. An administrative hearing conducted by the Department of Revenue is not the appropriate forum in which to address this constitutional challenge.

**FINDING**

Taxpayer's protest is respectfully denied.

**II. Computational Errors**

Taxpayer challenges the tax assessment on the ground that the audit report contained substantive, computational errors. Taxpayer maintains that errors occurred in calculating the apportionment numerator and that three pages of the audit's worksheets contain numerical misstatements or omissions.

IC 6-8.1-5-1(b) states that, "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

The administrative hearing is not the means by which purported computational errors may be analyzed, corrected, or refuted. Nonetheless, taxpayer has met its burden under IC 6-8.1-5-1(b) of demonstrating that its assertion is not frivolous or entirely groundless. Accordingly, the audit division is requested to conduct a supplemental review of the specific claimed errors and make whatever corrections it deems necessary.

**FINDING**

Subject to the results of the supplemental audit, taxpayer's protest is sustained.

**III. Abatement of the Ten Percent Negligence Penalty**

Taxpayer urges the Department to abate the ten percent negligence penalty arguing that "the current status of all economic nexus based taxes, including Indiana's Financial Institution Tax, support the finding that no filing requirement exists for out-of-state financial institutions such as [taxpayer]."

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer did not file FIT tax returns, was audited during 2001, and was assessed for six years of unpaid taxes. Taxpayer is a substantial, sophisticated business receiving large amounts of money from sources within Indiana. Taxpayer's larger constitutional question aside, the decision to simply ignore this state's FIT is not the evidence of the "ordinary business care and prudence" expected of an "ordinary reasonable taxpayer" that would warrant abatement of the ten percent negligence penalty.

**FINDING**

Taxpayer's protest is respectfully denied.

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**DEPARTMENT OF STATE REVENUE**

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**LETTER OF FINDINGS NUMBER: 02-0355 and 02-0356**

**State Gross Retail and Gross Income Tax**

**For Years 1998 to 2000**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Gross Income Tax – Application to Municipality for the Operation of a Golf Course**

**Authority:** Department of Treasury v. City of Evansville, 60 N.E.2d 952, (IN 1945); West Publishing Co. v. Indiana Dept. of Revenue, 524 N.E.2d 1329 (Ind. Tax Ct. 1988); City Securities Corp. v. Dept. of State Revenue, 704 N.E.2d 1122 (Ind. Tax Ct. 1998); IC § 6-2.1-3-29; IC 6-8.1-3-3; 45 IAC 15-3-2

Taxpayer protests subjecting income from operation of a municipal golf course to Gross income tax.

**II. Gross Retail Sales Tax – Assessment of Sales Tax on Transactions Related to a Municipal Golf Course**

**Authority:** Department of Treasury v. City of Evansville, 60 N.E.2d 952 (Ind. 1945); 45 IAC 2.2-4-20

Taxpayer protests the assessment of sales tax on transactions related to the operation of its municipal golf course.

**III. Tax Administration – Waiver of Penalty**

**Authority:** IC 6-8.1-10-2.1; 45 IAC 15-11-2(b)

Taxpayer seeks waiver of the penalties because the tax liabilities were due to reasonable cause and not due to willful neglect.

**STATEMENT OF FACTS**

The taxpayer is an Indiana municipality. Its parks and recreation department operates a municipal golf course which charges admission fees and provides various items for rental, including golf carts. Gross income and Gross Retail Sales audits found that the income from the municipal golf course had not had the respective taxes paid on it and an assessment was made, with penalties. A timely protest was made, with a hearing held on February 20<sup>th</sup>, 2003 and this Letter of Finding resulting.

**DISCUSSION**

**I. Gross Income Tax – Application to Municipality for the Operation of a Golf Course**

Taxpayer bases its protest on the argument that while the Indiana Supreme Court held in Department of Treasury v. City of Evansville, 60 N.E.2d 952 (Ind. 1945) that the operation of a golf course was a proprietary or private activity, that holding was based entirely on the fact that Indiana courts had consistently held that the operation of a park system was a proprietary activity, and accordingly, the operation of a golf course should be treated in the same manner. Taxpayer then notes that IC 6-2.1-3-29, enacted after the Court’s finding, specifically exempts from the gross income tax “...gross income ... derived from the operation of a park or recreation facility...or the performance of similar governmental services is exempt if the gross income is received by the state of Indiana, an agency or instrumentality of the state of Indiana, or a municipal corporation or political subdivision of the state of Indiana.” Taxpayer contends that if the golf course is not considered a park or recreation facility, it should, at least, be considered a similar governmental service.

While the above exemptions have been enacted, along with several other exemptions enumerated in Department of Treasury v. City of Evansville, golf courses, which were explicitly found to be a proprietary activity by the Indiana Supreme Court in this case, have never received a statutory or regulatory exemption.

Additionally, Taxpayer argues that if the Department does find the golf course to be a proprietary activity, the finding should be prospective and the assessment should be waived based upon estoppel. Under IC 6-8.1-3-3, the Department of Revenue is without authority to reinterpret a taxpayer’s tax liability without promulgating and publishing a regulation giving taxpayer notice of that reinterpretation. IC 6-8.1-3-3(b) states that “[n]o change in the department’s interpretation of a listed tax may take effect before the date the change is (1) adopted in a rule under this section or (2) published in the Indiana Register...”

In City Securities Corp. v. Dept. of State Revenue, 704 N.E.2d 1122 (Ind. Tax Ct. 1998), plaintiff taxpayer argued that the Department could not impose gross income tax on the gain realized from the sale of tax-exempt bonds, because that gain had been treated as exempt for 42 years. Id. at 1128. Plaintiff taxpayer argued that, in the absence of a new rule or regulation, the Department’s assessment of gross income taxes against the gain realized from the sale of the tax-exempt bonds was invalid. Id. at 1129. The Tax Court found that – despite the intervening adoption of regulations to the contrary – the Department could not impose the additional taxes when the Department had permitted plaintiff taxpayer to claim an exemption from the taxes subsequent to the adoption of the intervening regulations. Id. Nevertheless, the Tax Court also held that plaintiff taxpayer, having been placed on notice of its additional tax liability, was responsible for paying the tax on a prospective basis. Id.

However, in West Publishing Co. v. Indiana Dept. of Revenue, 524 N.E.2d 1329 (Ind. Tax Ct. 1988), the Tax Court held that respondent Department was not estopped from assessing state income taxes based upon a letter respondent Department had previously issued to petitioner taxpayer. Id. at 1334. The West letter was prepared by respondent Department after petitioner taxpayer had replied to respondent Department’s request for a detailed description of petitioner taxpayer’s business activities in Indiana. Id. at 1331. Petitioner taxpayer argued that the letter, written by one of respondent Department’s tax examiners, stated that petitioner taxpayer bore no state income tax liability because respondent taxpayer’s activities within the state were limited to the solicitation of sales. Id. at 1333. The Tax Court disagreed with petitioner taxpayer’s contention finding that the “letter does not purport to state that [petitioner taxpayer] bore no tax liability.” Id. Instead, the Tax Court found that “[i]t is true that the letter *could* be read as a statement that [petitioner taxpayer] was not liable, but the mere *possibility* that the Department made such a representation is not, in this court’s view, sufficient to create estoppel.” Id. (*Emphasis added*).

The West letter directed to petitioner taxpayer read as follows:

This letter is in acknowledgment of your reply to my correspondence of March 28, 1979. The information which you have submitted has proved to be a sufficient answer to the question raised in my previous correspondence. I would like to thank you for your cooperation in this matter. Id.

The Tax Court held that petitioner taxpayer was precluded from asserting the estoppel argument, based upon the representations contained within the ambiguous letter, because – inter alia – there was no evidence that petitioner had changed its position in reliance upon those representations. Id. at 1334.

A particular Indiana taxpayer is entitled to place its reliance upon a Department ruling “based on a particular situation which may affect

the tax liability of the taxpayer....” 45 IAC 15-3-2(d)(3). The Department will issue advisory letters to individual taxpayers, some of which will be binding upon the Department and some of which will not bind the Department. 45 IAC 15-3-2(e). When an individual taxpayer directs a written inquiry to the Department, describing in full the factual circumstances surrounding a particular transaction and seeking advice as to the tax consequences of that particular transaction, then “[a]ll such rulings issued will be binding provided that all of the facts described in obtaining the ruling are true and accurate. Any misstatement of material fact or information will void the ruling.” *Id.*

Taxpayer argues, based on assurances it received from state officials and a remark by a presenter at a state Training School for municipal clerk-treasurers, that it is entitled to prospective treatment. Inasmuch as the state has many officials, not all of whom are authoritatively versed in the nuances of State tax law, nor are any authorized to verbally void existing statutes and case law, remarks and answers can be given that do not comport to state law. Admittedly the remarks at the training seminar focusing on the issues of municipal taxation may have been confusing, nonetheless taxpayer should have been aware that placing reliance on anything less than an explicit- and documented- assertion was questionable. Taxpayer did not make a specific written inquiry, in which taxpayer could have sought advice in writing as to the tax consequences of a particular transaction, pursuant to 45 IAC 15-3-2. Additionally, taxpayer does not provide any state issued documentation on which it relied to make its determination. In a matter of such complexity, reliance solely on verbal representations will not create estoppel.

**FINDINGS**

Taxpayer’s appeal is respectfully denied.

**II. Gross Retail Sales Tax – Assessment of Sales Tax on Transactions Related to a Municipal Golf Course**

As in issue I, Taxpayer bases its protest on the argument that while the Indiana Supreme Court held in Department of Treasury v. City of Evansville, 60 N.E.2d 952 (Ind. 1945) that the operation of a golf course was a proprietary or private activity, that holding was based entirely on the fact that Indiana courts had consistently held that the operation of a park system was a proprietary activity, and accordingly, the operation of a golf course should be treated in the same manner. Taxpayer then argues that it can be inferred from 45 IAC 2.2-4-20, which states in relevant part, “Municipal corporations, . . . , shall, in the performance of private or proprietary activities or business, constitute retail merchants making retail transactions in respect to receipts which would constitute gross retail income from a retail transaction if received by a retail merchant.” That inasmuch as the argument outlined in Issue I concludes the golf course was not proprietary, similar reasoning applied to this regulation would exempt the proceeds from the sales tax requirements as well.

Given that the Department has concluded, as discussed in Issue I above, that the operation of Golf course is a proprietary activity, 45 IAC 2.2-4-20 does require the collection of sales tax.

**FINDINGS**

Taxpayer’s appeal is respectfully denied.

**III. Tax Administration – Waiver of Penalty**

**DISCUSSION**

Penalty waiver is permitted if the taxpayer shows that the failure to pay the full amount of the tax was due to reasonable cause and not due to willful neglect. IC § 6-8.1-10. The Indiana Administrative Code further provides in 45 IAC 15-11-2:

(b) “Negligence” on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

(c) The department shall waive the negligence penalty imposed under IC 6-8.1-10-1 if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:

- (1) the nature of the tax involved;
- (2) judicial precedents set by Indiana courts;
- (3) judicial precedents established in jurisdictions outside Indiana;
- (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
- (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case. Taxpayer has established that it exercised reasonable care in its analysis of this issue. While taxpayer’s arguments are not dispositive, they are factors which are indicative of the taxpayer’s reasonable care, caution, or diligence in this matter.

**FINDINGS**

Taxpayer’s appeal sustained.

**DEPARTMENT OF STATE REVENUE**

0420020449.LOF

**LETTER OF FINDINGS NUMBER: 02-0449**

**Sales Tax**

**Calendar Years 1999, 2000, and 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Sales Tax – Sales Tax Collected on Sales of Autos**

**Authority:** 45 IAC 2.2-6-8; 45 IAC 6-8.1-5-1(a)

Taxpayer protests the sales tax on auto sales it did not make.

**STATEMENT OF FACTS**

Taxpayer was audited for calendar years 1999, 2000, and 2001. Upon audit it was discovered that the taxpayer failed to remit all of the sales tax collected. The audit was based upon the Bureau of Motor Vehicle's "Summary by Short Dealer" that lists the titles and the sales tax collected. Because the BMV sales tax did not agree with the sales tax remitted to the Indiana Department of Revenue, the difference was assessed in the audit. It is noted that a supplemental audit was prepared after the auditor presented his initial findings that limited the variance from year-end totals to specific transactions. The taxpayer's research also reduced the potential assessment.

At hearing, taxpayer states that forty vehicles had been stolen and the defendant admitted to the theft in the Marion Superior Court. A letter from the Marion County Prosecuting Attorney, dated October 6, 1999 states that the defendant was charged with "Theft". On July 9, 2001, the taxpayer filed an "Impact Statement & Restitution Information" indicating the total value of property stolen was approximately \$30,000.

Taxpayer states that he owes no more than \$400 in tax.

The hearing officer has reviewed the original and supplemental audits and found that the original was based upon a Dealer List obtained from the Bureau of Motor Vehicles. The supplemental audit addressed taxpayer's concerns and adjustments were made. Taxpayer, however, was unhappy with the supplemental audit results because he felt it should be "zero" dollars due and filed a protest with the Legal Division.

**I. Sales Tax – Sales Tax Collected on Auto Sales**

**DISCUSSION**

Taxpayer's audit was based upon information from the BMV's "Short Dealer" records. The audit assessed sales tax for items shown on the short dealer records that had no sales tax remitted to the Department of Revenue.

In reviewing the audit report and the file, it is noted that the assessment stems from BMV's "Short Dealer" records. Taxpayer had a supplemental audit prepared before he protested to the Legal Division. At hearing, the taxpayer states that 40 vehicles were stolen, four different dealers utilized his Dealer License Number and he was not responsible. Taxpayer feels he owes nothing or a maximum of \$400.

Taxpayer, however, has not provided proof that the assessment is in error. Taxpayer argues that he owes nothing because of the theft of vehicles. It is noted, that audit adjusted for the theft of vehicles at an estimated retail cost instead of the \$30,000 actually reported to the Marion county Prosecuting Attorney. Taxpayer provided nothing to aid in further reduction of the assessment.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0420030106P.LOF

**LETTER OF FINDINGS NUMBER: 03-0106P**

**Use Tax**

**For Calendar Years 1999, 2000, and 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**II. Tax Administration – Interest**

**Authority:** IC 6-8.1-10-1

Taxpayer protests the interest assessed.

**STATEMENT OF FACTS**

Upon audit, Taxpayer was assessed a penalty for failing to self assess use tax on distributed samples and display merchandise which was an issue in the prior audit. The audit determined that the taxpayer did not begin accruing and remitting use tax on display materials placed into service in Indiana until more than one year after the prior audit was completed. The assessment amounted to 46%, 25%, and 0% of use tax due for calendar years 1999, 2000, and 2001.

Taxpayer, in a letter dated February 25, 2003 requests that the department waive the penalty and interest because the total underpayment was due to an administrative error resulting in less than 1% of the total samples reported during 1999 and taxpayer did not begin reporting use tax on displays until the fourth quarter of 1999 due to reporting difficulties.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer was assessed a ten percent (10%) penalty because it failed to report its use tax due on samples and display materials used in Indiana.

Taxpayer states that the underpayment of samples was an administrative error and it did not begin reporting the use tax on displays until the fourth quarter in 1999 because of reporting difficulties. Taxpayer further states that since 1999, all payments were complete and accurate and all returns were filed and paid timely.

Department records indicate the taxpayer was previously audited and failed to make the corrections timely. The prior audit was completed on September 24, 1997.

Taxpayer has not provided reasonable cause to allow the penalty to be waived.

**FINDING**

Taxpayer's protest is denied.

**II. Tax Administration – Interest**

**DISCUSSION**

Taxpayer protests the interest assessed.

**FINDING**

The Department has no authority to waive interest.

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**DEPARTMENT OF STATE REVENUE**

0220030124P.LOF

**LETTER OF FINDINGS NUMBER: 03-0124P**

**Adjusted Gross Income Tax**

**For Calendar Year 2000**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

**STATEMENT OF FACTS**

Taxpayer protests the proposed assessment for the late penalty and the underpayment of estimated income taxes that it paid with the filing of the return. Taxpayer states that it was not aware that it would need to recognize \$6,704,746 of discharge of indebtedness income generated by its parent corporation until after April 15, 2001.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalties assessed for the underpayment of estimated income taxes and the late payment of taxes. Taxpayer states that it was unaware that the parent company generated additional income until after the due date of the return.

Taxpayer failed to pay one hundred percent of its prior year's estimated taxes by the due date of the return and did not pay ninety percent (90%) of its tax liability by the original due date which generated a late payment penalty.

Although the taxpayer timely remitted quarterly estimated payments, it failed to remit one-hundred percent of the prior year's

tax by the due date of the return. Taxpayer remitted the estimated payment penalty with its tax return and has not provided cause to allow the Department to refund the payment.

IC 6-8.1-6-1 (a) states:

“If a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date.”

IC 6-8.1-6-1(d) states:

“Any tax that remains unpaid during an extension period accrues interest at a rate established under IC 6-8.1-10-1 from the original due date, but that tax will not accrue any late payment penalties until the extension period has ended.”

Taxpayer remitted sixty-eight percent (68%) of the tax that it reasonably expected to be due by the due date which amounted to only fifty-five (55%) of the prior year’s tax.

Taxpayer has not provided reasonable cause to allow penalty waivers. Procedures should have been in place to assure that taxes were timely paid.

**FINDING**

Taxpayer’s protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0220030125P.LOF

**LETTER OF FINDINGS NUMBER: 03-0125P**

**Adjusted Gross Income Tax**

**For the Fiscal Year Ended 01/31/2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department’s official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

**STATEMENT OF FACTS**

Taxpayer protests the proposed late payment penalty. Taxpayer states that the late filing was not due to any willful neglect or with the intention to avoid the payment of the taxes due on or before the extended due date of the tax return. Taxpayer further states it was prevented from filing its return and full payment by the extended due date due to extenuating circumstances. It was required to restate its financial statements with the Securities Exchange Commission for the fiscal years 1999, 2000, and 2001. In order to accurately file its return, Taxpayer states it had to await the finalization of the financial restatement. During the restatement process, its resources were limited to the restatement and its tax filings were severely delayed. The return was filed October 9, 2002.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed for the late filing and payment of taxes. Taxpayer states that it had unforeseen circumstances that were unintentional.

Taxpayer did not pay ninety percent (90%) of its tax liability by the original due date which generated a late payment penalty. Taxpayer paid one hundred percent (100%) of its tax liability one year after the extended due date of the return.

Taxpayer failed to remit one hundred percent of the prior year’s tax by the due date of the return.

IC 6-8.1-6-1 (a) states:

“If a person responsible for filing a tax return is unable to file the return by the appropriate due date, he may petition the department, before that due date, for a filing extension. The person must include with the petition a payment of at least ninety percent (90%) of the tax that is reasonably expected to be due on the due date.”

IC 6-8.1-6-1(d) states:

“Any tax that remains unpaid during an extension period accrues interest at a rate established under IC 6-8.1-10-1 from the original due date, but that tax will not accrue any late payment penalties until the extension period has ended.”

Taxpayer remitted one hundred percent (100%) of its tax one year after the extended due date.

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**Nonrule Policy Documents**

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Taxpayer has not provided reasonable cause to allow a penalty waiver. Procedures should have been in place to assure that taxes were timely paid.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0220030132P.LOF

**LETTER OF FINDINGS NUMBER: 03-0132P**

**Gross Income Tax  
Calendar Year 1999**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was assessed a penalty for failing to remit estimated taxes. Taxpayer had a tax liability balance of \$106,744 at the time of filing its return. Taxpayer requests an abatement of the penalties.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests Liability No. 1998-91795564 for the underpayment of estimated income taxes. Taxpayer states that it began operations in April 1998 and paid a total of \$330,000 in estimated 1998 Indiana tax which included an overpayment of \$48,614 that was applied to its 1999 Indiana tax liability.

In April 1999, taxpayer liquidated its business and sold its operating assets to a third party. The proceeds from the liquidation sale were used to payoff its existing debts. The accounting department was unable to estimate the amount of Indiana tax it would be required to pay for the tax year ending December 31, 1999.

Taxpayer paid forty-six percent (46%) of its tax liability, with the filing of its return, on October 16, 2000 and paid the interest and late payment penalty on July 16, 2002.

Taxpayer was assessed a penalty for the underpayment of quarterly estimated taxes. Taxpayer did not make quarterly estimated payments as required under IC 6-2.1-5-1.1 and remitted only fifty-four percent (54%) of its tax by the due date of the return.

Taxpayer has not provided reasonable cause to allow penalty waivers.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0120030133P.LOF

**LETTER OF FINDINGS NUMBER: 03-0133P**

**Individual Income Tax  
For Calendar Year 1998**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the proposed penalty assessment for failing to report Federal RAR adjustments. Taxpayer's additional income tax amounted to \$8,781.53. It was determined that final resolution with the Internal Revenue Service was on June 10, 2002 but the taxpayer failed to report the RAR adjustments to the Indiana Department of Revenue.

Taxpayer's CPA filed a penalty protest letter dated March 13, 2003 that merely requests a penalty waiver.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer merely requests a penalty and interest waiver because he was not aware that he should have considered amending the Indiana returns as a result of the federal adjustment. Taxpayer further states that the examination by the IRS for the year involved was stretched beyond an excessive amount of time and incurred additional interest charges.

Taxpayer did not notify the Department as required under 45 IAC 3.1-1-94 and IC 6-3-4-6 which state that the taxpayer file a notice, on a form prescribed by the department, within one hundred twenty (120) days after the modification is made.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty and has no authority to waive interest.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0320030134P.LOF

**LETTER OF FINDINGS NUMBER: 03-0134P**

**Withholding Taxes**

**For the Period April 2002 through December 2002**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer filed and paid several of its WH-1's late and was assessed a late payment penalty. In a letter dated March 13, 2003, taxpayer protests the penalty assessed because it did not know where to send its State Withholding Taxes or when they were due.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer was assessed a ten percent (10%) penalty for each of its Withholding Tax returns because they were paid after the due date.

Taxpayer remitted its tax late for eight months after opening its business. Taxpayer failed to register with the Department prior to opening her business and remitted eight months of withholding taxes in January 2003. Taxpayer was assessed a late payment penalty for each of the eight late filed returns plus interest.

Taxpayer argues that she was not advised regarding the forms, where to send the taxes, when they were due, and did not know about a district office in their area. Taxpayer states it filed its returns with that office and was told it would owe penalties and interest for filing and paying late.

Taxpayer apparently had not attempted to register before opening its business nor pay its taxes timely. Taxpayer should have had procedures in place to assure that its taxes were filed and paid timely and has not provided reasonable cause to allow a waiver of the penalties assessed.

**FINDING**

Taxpayer's protest is denied.

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**Nonrule Policy Documents**

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**DEPARTMENT OF STATE REVENUE**

0420030135P.LOF

**LETTER OF FINDINGS NUMBER: 03-0135P****Sales and Use Taxes****Calendar Years 1999, 2000, and 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)****I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a small business corporation that owns and manages a hotel. Upon audit it was discovered that the taxpayer had no use tax accrual system in place and failed to report sales tax from its vending machine sales, for meeting room rentals, movie rentals, and telephone charges.

**I. Tax Administration – Penalty****DISCUSSION**

Taxpayer requests that the penalty assessed be waived because it was not aware of all the services that were taxable. Taxpayer states it now understands the requirements and agrees to the tax assessment.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to self-assess and remit tax on 100% of its untaxed taxable purchases for all years at audit and has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0420030139P.LOF

**LETTER OF FINDINGS NUMBER: 03-0139P****Sales and Withholding Taxes****Various Periods for the Years 2000, 2001, and 2002**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)****I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer filed and paid several of its ST103's and WH-1's late and was assessed a late payment penalty. In a letter dated March 24, 2003, taxpayer protests the penalty assessed because it had corporate policies and internal control procedures that met the standards required for approval of its financial statements. Taxpayer's representative states that it would have discovered the noncompliance prior to its periodic financial review, had it not been for the taxpayer's mandatory vacation policy. Taxpayer requests a penalty waiver because it was not careless in its duty to file and remit tax to the state.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer was assessed a ten percent (10%) penalty for each of its Sales and Withholding Tax returns because it paid its tax after the due date.

Taxpayer's representative states that its client not only has the controls normally used by most businesses, but also has implemented a level of control not normally found in this type of business. Possibly due to employee turnover in 2001, compliance deteriorated and taxpayer's representative believes it would have discovered this failure in the process of the next periodic financial review. Taxpayer's mandatory vacation policy exposed this noncompliance prior to the representative's periodic financial review.

Taxpayer's records indicate it currently has outstanding liabilities for the late filing of sales tax returns that includes 8/31/2001, 10/31/2001, 11/30/2001, 12/31/2001, 1/31/2002, 2/28/2002, 3/21/2002, 4/30/2002, 5/31/2002, 6/30/2002, and 9/30/2002. Withholding Tax Late Liabilities include 8/31/2001, 10/31/2001, 11/30/2001, 2/28/2002, 3/31/2002, 4/30/2002, 5/31/2002, 6/30/2002, and 9/30/2002.

Taxpayer apparently has no procedures in place to assure that its taxes are filed and paid timely and has not provided reasonable cause to allow a waiver of the penalties assessed.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0120030140P.LOF

**LETTER OF FINDINGS NUMBER: 03-0140P**

**Individual Income Tax  
For Calendar Year 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the proposed penalty assessment for late payment and underpayment of estimated taxes. Taxpayer remitted its return and payment timely. However, upon review by the Department it was noted that the taxpayer had included an erroneous amount on line 21. The Department advised the taxpayer and the taxpayer remitted \$2,087.10 on December 12/27/02. \$140.10 of the \$2,087.10 was applied to the underpayment penalty. Taxpayer was assessed a penalty for late payment in the amount of \$194.70, a portion of which was also paid with the \$2,087.10.

Taxpayer filed a penalty protest letter dated March 20, 2003 that requests a penalty waiver for the underpayment penalty and the ten-percent standard penalty.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer believes it has reasonable cause that all penalties and interest be abated. Taxpayer specifically states that the problem with the estimated tax payments for the year 2001 was that it stemmed from a refund it applied from its 2000 return to the 2001 return. Taxpayer states that that discrepancy has been cleared. Taxpayer states it did not intentionally underpay nor disregard the rules.

Taxpayer made an error on its return that caused the tax to be underpaid. Human error is not considered reasonable cause.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty. The Department has no authority to waive interest.

**FINDING**

Taxpayer's protest is denied.

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**Nonrule Policy Documents**

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**DEPARTMENT OF STATE REVENUE**

0420030151P.LOF

**LETTER OF FINDINGS NUMBER: 03-0151P****Use Tax****Calendar Years 1999, 2000, and 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)****I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a multinational company headquartered out of state with a manufacturing plant and distribution center in Indiana. At audit, it was determined that the taxpayer failed to self assess and remit use tax for approximately eight percent (8%) of its previously untaxed taxable purchases such as magazines and subscriptions, computer software, mats, office cabinets, maintenance equipment, laptop computers, electrical supplies, office supplies, and various other miscellaneous items.

The taxpayer was previously audited in 1996 and 1999.

**I. Tax Administration – Penalty****DISCUSSION**

Taxpayer requests that the penalty assessed be waived because it made a good faith effort to comply with all of the sales and use tax laws in the state. In the future, it will make every effort to pay all the sales and use taxes that are due.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to self-assess and remit tax on approximately eight percent (8%) of its untaxed taxable purchases, some of which were issues in the prior audits, and has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0220030152P.LOF

**LETTER OF FINDINGS NUMBER: 03-0152P****Gross Income Tax****For Calendar Years 1998, 1999, and 2000**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)****I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

**STATEMENT OF FACTS**

Taxpayer was assessed a penalty at audit for failing to report gross income to the state of Indiana and a penalty for the underpayment of estimated income taxes. Taxpayer protests the proposed penalty assessments for the underpayment of estimated tax and the audit penalty. Taxpayer, in letters dated March 14, 2003 and March 21, 2003, states that it relied on its Certified Accountants to properly prepare its returns.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalties assessed. Taxpayer states that it relied upon its Certified Accountants to properly prepare its returns, therefore, it has reasonable cause to allow the Department to waive the penalties assessed. The Certified Public Accountant provided a letter dated April 14, 2003 that indicates there was either a program error or an oversight for the failure to subject receipts to the gross income tax.

Taxpayer failed to report gross income subject to the gross income tax. Receipts, which are derived from providing services of any character within Indiana, are subject to the Gross Income Tax at the high rate. The taxpayer provides engineering consultant services that are performed within Indiana.

Neither taxpayer nor its CPA has provided reasonable cause to allow a penalty waiver for the untaxed gross receipts.

Taxpayer also failed to file and remit quarterly estimated income taxes for almost all of its quarterly returns.

To avoid the penalty, the quarterly estimate must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to make the quarterly estimated payments and has not provided reasonable cause to allow a penalty waiver. Procedures should have been in effect to assure that taxes were timely paid. Taxpayer had Certified Public Accountants that should have been aware of Indiana Tax Law and its consequences.

**FINDING**

Taxpayer's protest is denied.

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**DEPARTMENT OF STATE REVENUE**

0220030160P.LOF

**LETTER OF FINDINGS NUMBER: 03-0160P**

**Partnership IT-65**

**For Calendar Year 2001**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-6

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was assessed \$10 per day for a total of \$250 for filing its return late.

Taxpayer filed a penalty protest dated March 28, 2003 stating that it is not subject to a penalty under IRC Rev. Proc. 84-35.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that the Federal Government does not assess a penalty if all its partners have fully reported their shares of income, deductions, and credits of the partnership on their timely filed tax returns and each of the four members have reported their income reflected on Form K-1.

IC 6-8.1-10-2.1 (g) states:

“A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in Section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars (\$10) for each day that the return is past due, up to a maximum of two hundred fifty dollars (\$250).”

Taxpayer has not provided reasonable cause to allow a penalty waiver.

**FINDING**

Taxpayer's protest is denied.

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Digest	Published	Digest	Published
<b>BUILDING COMMISSIONER, OFFICE OF THE STATE</b>		<b>REVENUE, DEPARTMENT OF STATE</b>	
<b>Written Interpretations of a Building Law:</b>		<b>Audit-Grams:</b>	
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OSBC-03-02: Foundation wall construction (2/1/03)	26 IR 1747	<b>Departmental Notices:</b>	
		2: Prepayment of sales tax on gasoline (6/1/03)	26 IR 3176
<b>ELECTION COMMISSION, INDIANA</b>		<b>Information Bulletins:</b>	
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03-28: Woolery for state senate committee	26 IR 2696	6: Income tax - Civil service annuity adjustment and military retirement or survivor's benefit adjustment (1/03)	26 IR 1749
03-29: Clay for legislature committee	26 IR 2696	7: Income tax - Filing requirements for prior year individual income tax returns (1/03)	26 IR 1750
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<b>ENVIRONMENTAL MANAGEMENT, DEPARTMENT OF</b>		11: Income tax - Indiana corporate estimated income tax payments (1/03)	26 IR 1755
<b>Commissioner's Bulletins:</b>		12: Income tax - Corporate income taxes (1/03)	26 IR 2142
List of hazardous waste sites scored using the Indiana Scoring Model (ISM) (1/03)	26 IR 1364	14: Income tax - Income tax credit for donations to colleges (1/03)	26 IR 2144
<b>Land Quality, Office of</b>		15: Income tax - Extension of time to file Indiana's corporation income tax returns and recognition of the federal extension of time to file Indiana corporation income tax returns (1/03)	26 IR 2145
W-0046: Risk integrated system of closure (RISC), User's Guide Chapter 2, RCRA closure and corrective action (10/15/02)	26 IR 2141	16: Income tax - Use of federal form W-2 for reporting Indiana state and county taxes withheld (1/03)	26 IR 2146
W-0051: Brownfields program comfort and site status letters policy (4/18/03)	26 IR 2697	17: Income tax - Taxation and filing requirements of not-for-profit organizations (1/03)	26 IR 1756
<b>Water Quality, Office of</b>		18: Income tax - Instruction for obtaining extensions of time to file Indiana individual income tax returns (1/03)	26 IR 2147
Water-005: Review of sanitary sewer construction permit applications for communities with combined sewer overflow outfalls (6/7/03)	26 IR 3433	19: Income tax - Government obligations (1/03)	26 IR 2148
<b>FIRE AND BUILDING SERVICES, DEPARTMENT OF</b>		22: Income tax - Neighborhood assistance tax credit (1/03)	26 IR 2150
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<b>HEALTH, INDIANA STATE DEPARTMENT OF</b>		27: Income tax - Indiana adjusted gross income tax applicable to military personnel (1/03)	26 IR 2154
Income eligibility guidelines for the MCH / CSHCS / Hoosier Healthwise Programs based on health and human services poverty income guidelines (3/03)	26 IR 2699	32: Income tax - General information on county income taxes (1/03)	26 IR 2155
<b>INSURANCE, DEPARTMENT OF</b>		37: Sales tax - Sales by out-of-state merchants (1/03)	26 IR 1758
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BuSET training courses (4/1/01)	26 IR 3437	51: Sales tax - Public utilities (1/03)	26 IR 2160
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20: Ratemaking process for resorts and marinas under lease with the Department of Natural Resources (first amendment)	26 IR 3439	65: Sales tax - Manufactured homes (mobile homes) (12/02)	26 IR 1763
36: Proposed conservancy district nonrule policy document	26 IR 1369	66: Income tax - Enterprise zones (1/03)	26 IR 2167
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16: Civil penalty schedule for violations of oil and gas production laws (First amendment)	26 IR 1376	72: Income tax - S Corporation/partnership/fiduciary election to file composite return on behalf of nonresident shareholders/partners/beneficiaries (1/03)	26 IR 1765
35: Type I and Type II marine sanitation devices on navigable waters of Indiana (1/1/03)	26 IR 1380	78: Income tax - Foreign source dividend deduction (1/03)	26 IR 2171
37: Submission and review of hydraulic modeling for permit applications under the Flood Control Act	26 IR 2701	79: Income tax - Income derived from investment funds holding U.S. government obligations (1/03)	26 IR 1766
		85: Nominee withholding procedures for small business corporations, partnerships, and fiduciaries (1/03)	26 IR 1767
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88: Income tax - Taxation of nonresident professional athletes (1/03)	26 IR 2174	99-0596 (1995-96): Distributive shares	26 IR 3190
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02-0452 CSET (2000): Imposition	26 IR 2538	99-0656 (fiscal years 1994-95): Unitary filing status; retroactive withdrawal of permission to file unitary; consolidated returns; throwback sales	26 IR 2707
<b>County Innkeeper's Tax:</b>			
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02-0026 (Corporate) (1997-99): Disallowance of claimed business expenses; abatement of the ten percent negligence penalty	26 IR 1400	02-0537 (Individual) (1999): Taxpayer's Indiana income tax exemptions	26 IR 2739
02-0082 (1998): Nonprofit water & sewer utility cooperative; prospective treatment of taxpayer's gross income tax liability; abatement of the ten percent negligence penalty	26 IR 1404	02-0540P (fiscal years ended 6/27/99 and 7/2/00): Tax administration - penalty	26 IR 2198
02-0084 (Individual) (1997-99): Indiana source income; entertainment expense; tax administration - penalty	26 IR 2522	02-0546P (fiscal year ended 9/30/01): Tax administration - penalty	26 IR 2198
02-0118 (Individual) (1999-2000): Tax administration - penalty	26 IR 2525	02-0549P (Individual) (2001): Tax administration - penalty	26 IR 2200
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50 IAC 3.1-2-1	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-1-3	R	02-261	26 IR 1121	<b>26 IR 2607</b>
50 IAC 3.1-2-5	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-2-1	A	02-261	26 IR 1118	<b>26 IR 2604</b>
50 IAC 3.1-2-6	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-2-2	A	02-261	26 IR 1118	<b>26 IR 2604</b>
50 IAC 3.1-2-7	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-2-3	A	02-261	26 IR 1119	<b>26 IR 2605</b>
50 IAC 3.1-2-8	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-2-3.1	N	02-261	26 IR 1120	<b>26 IR 2605</b>
50 IAC 3.1-2-9	R	01-367	25 IR 2550	<b>26 IR 328</b>	60 IAC 2-2-4	A	02-261	26 IR 1120	<b>26 IR 2605</b>
50 IAC 3.2	N	01-367	25 IR 2548	<b>26 IR 326</b>	60 IAC 2-2-5	A	02-261	26 IR 1120	<b>26 IR 2606</b>
				*ERR (26 IR 382)	60 IAC 2-2-5.1	N	02-261	26 IR 1121	<b>26 IR 2606</b>
50 IAC 12-16-30				*ERR (26 IR 793)	60 IAC 2-2-6	R	02-261	26 IR 1121	<b>26 IR 2607</b>
50 IAC 14-3-1				*ERR (26 IR 3046)	60 IAC 2-2-7	R	02-261	26 IR 1121	<b>26 IR 2607</b>
50 IAC 14-4-1				*ERR (26 IR 382)					
50 IAC 14-5-1				*ERR (26 IR 3046)	TITLE 65 STATE LOTTERY COMMISSION				
50 IAC 14-5-3				*ERR (26 IR 3046)	65 IAC 3-3-3	A	02-252		*ER (26 IR 40)
50 IAC 14-6-1				*ERR (26 IR 382)	65 IAC 3-3-10	A	02-252		*ER (26 IR 40)
50 IAC 14-7-1				*ERR (26 IR 382)	65 IAC 3-4-4	A	02-252		*ER (26 IR 41)
50 IAC 14-8-1				*ERR (26 IR 3046)	65 IAC 3-4-5	A	02-252		*ER (26 IR 42)
50 IAC 15-1-1.5	N	01-266		*ERR (26 IR 382)	65 IAC 4-2-4	A	02-253		*ER (26 IR 42)
50 IAC 15-1-2.5	N	01-266	25 IR 410	*ERR (26 IR 3046)	65 IAC 4-2-8	A	02-253		*ER (26 IR 43)
				†† <b>26 IR 1516</b>	65 IAC 4-206	N	03-121		*ER (26 IR 3348)
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591) <b>26 IR 1516</b>	65 IAC 4-319	N	03-148		*ER (26 IR 3360)
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591) <b>26 IR 1522</b>	65 IAC 4-452	N	02-353		*ER (26 IR 1585)
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591) <b>26 IR 1522</b>	65 IAC 4-453	N	02-350		*ER (26 IR 1580)
50 IAC 15-1-6	N	01-266	25 IR 410	*AROC (25 IR 2591)	65 IAC 5-2-4	A	02-253		*ER (26 IR 43)
50 IAC 15-3-1	A	01-266	25 IR 410	*AROC (25 IR 2591) <b>26 IR 1516</b>	65 IAC 5-2-8	A	02-253		*ER (26 IR 43)
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591) <b>26 IR 1516</b>	65 IAC 5-5-5	A	03-113		*ER (26 IR 3057)
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591) <b>26 IR 1517</b>	65 IAC 5-12-2	A	02-254		*ER (26 IR 44)
					65 IAC 5-12-3	A	02-254		*ER (26 IR 45)
					65 IAC 5-12-4	A	02-254		*ER (26 IR 45)
					65 IAC 5-12-5	A	02-254		*ER (26 IR 46)
					65 IAC 5-12-6	A	02-254		*ER (26 IR 46)
					65 IAC 5-12-7	A	02-254		*ER (26 IR 47)
					65 IAC 5-12-9	A	02-254		*ER (26 IR 47)
					65 IAC 5-12-10	A	02-254		*ER (26 IR 47)
					65 IAC 5-12-11	A	02-254		*ER (26 IR 48)
					65 IAC 5-12-12	A	02-254		*ER (26 IR 49)
					65 IAC 5-12-12.5	A	02-254		*ER (26 IR 49)
					65 IAC 5-12-14	A	02-254		*ER (26 IR 51)
					65 IAC 5-15-10	N	03-14		*ER (26 IR 1946)

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65 IAC 5-15-11	N	03-14	*ER (26 IR 1946)	71 IAC 7.5-6-1	A	03-52	*ER (26 IR 2384)
65 IAC 6-1-1.1	N	02-255	*ER (26 IR 51)	71 IAC 7.5-10	N	02-250	*ER (26 IR 56)
65 IAC 6-1-1.2	N	02-255	*ER (26 IR 51)	71 IAC 8-1-1	A	03-52	*ER (26 IR 2384)
65 IAC 6-1-2.1	N	02-255	*ER (26 IR 51)	71 IAC 8-4-1	A	03-52	*ER (26 IR 2385)
65 IAC 6-1-2.2	N	02-255	*ER (26 IR 51)	71 IAC 8-6-2	N	03-52	*ER (26 IR 2385)
65 IAC 6-1-4.1	N	02-255	*ER (26 IR 51)	71 IAC 8.5-1-1	A	03-52	*ER (26 IR 2385)
65 IAC 6-1-10	N	02-255	*ER (26 IR 52)	71 IAC 8.5-3-1	A	03-52	*ER (26 IR 2386)
65 IAC 6-2-3	A	02-255	*ER (26 IR 52)	71 IAC 8.5-4-8	N	02-250	*ER (26 IR 57)
65 IAC 6-2-4	A	02-255	*ER (26 IR 52)	71 IAC 8.5-5-2	N	02-250	*ER (26 IR 57)
65 IAC 6-2-5	A	02-255	*ER (26 IR 52)		N	03-52	*ER (26 IR 2386)
65 IAC 6-2-8	A	02-255	*ER (26 IR 53)	71 IAC 8.5-10-6	A	02-250	*ER (26 IR 58)
65 IAC 6-2-9	A	02-255	*ER (26 IR 53)	71 IAC 10-2-9	A	03-52	*ER (26 IR 2387)
65 IAC 6-3-2	A	02-255	*ER (26 IR 53)	71 IAC 12-2-15	A	02-251	*ER (26 IR 58)
65 IAC 6-3-3	R	02-255	*ER (26 IR 54)		A	02-282	*ER (26 IR 394)
65 IAC 6-4-6	R	02-255	*ER (26 IR 54)		A	03-52	*ER (26 IR 2387)
65 IAC 6-4-7	R	02-255	*ER (26 IR 54)	71 IAC 12-2-18	A	03-52	*ER (26 IR 2388)
65 IAC 6-4-8	R	02-255	*ER (26 IR 54)	71 IAC 12-2-19	A	02-251	*ER (26 IR 59)
65 IAC 6-4-9	R	02-255	*ER (26 IR 54)				*ERR (26 IR 382)
65 IAC 6-4-10	R	02-255	*ER (26 IR 54)	71 IAC 12-2-20	A	02-282	*ER (26 IR 395)
65 IAC 6-4-11	R	02-255	*ER (26 IR 54)	71 IAC 13.5-3-3	A	03-25	*ER (26 IR 1952)
65 IAC 6-4-12	R	02-255	*ER (26 IR 54)	71 IAC 14.5-1-3	A	03-25	*ER (26 IR 1952)
<b>TITLE 68 INDIANA GAMING COMMISSION</b>				<b>TITLE 80 STATE FAIR COMMISSION</b>			
68 IAC 3	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	80 IAC 4-3-3	A	02-200	26 IR 420
			<b>26 IR 1261</b>	80 IAC 4-3-5	A	02-200	26 IR 420
68 IAC 4	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	80 IAC 4-4	N	02-243	26 IR 2398
68 IAC 5	RA	01-418	25 IR 2589 *CPH (25 IR 3208)				
			<b>26 IR 1261</b>	<b>TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION</b>			
68 IAC 10	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 9-1-1	A	03-17	26 IR 2400
			<b>26 IR 1261</b>	105 IAC 9-1-2	A	03-17	26 IR 2400
68 IAC 11	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 9-2-1	A	02-231	26 IR 421
			<b>26 IR 1261</b>	105 IAC 12-1-2	A	03-58	26 IR 3077
68 IAC 12	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-1-5	A	03-58	26 IR 3077
			<b>26 IR 1261</b>	105 IAC 12-1-14.5	N	03-58	26 IR 3077
68 IAC 13	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-1-14.6	N	03-58	26 IR 3077
			<b>26 IR 1261</b>	105 IAC 12-1-18	A	03-58	26 IR 3077
68 IAC 14	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-1-22	A	03-58	26 IR 3077
			<b>26 IR 1261</b>	105 IAC 12-1-23	A	03-58	26 IR 3078
68 IAC 15	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-2-4	A	03-58	26 IR 3078
			<b>26 IR 1261</b>	105 IAC 12-2-6	A	03-58	26 IR 3078
68 IAC 16	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-2-7	A	03-58	26 IR 3078
			<b>26 IR 1261</b>	105 IAC 12-2-10	A	03-58	26 IR 3078
68 IAC 17	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-2-11	A	03-58	26 IR 3078
			<b>26 IR 1261</b>	105 IAC 12-2-13	A	03-58	26 IR 3079
68 IAC 18	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-2-14	A	03-58	26 IR 3079
			<b>26 IR 1261</b>	105 IAC 12-2-16	A	03-58	26 IR 3079
68 IAC 19	RA	01-418	25 IR 2589 *CPH (25 IR 3208)	105 IAC 12-2-17	A	03-58	26 IR 3080
			<b>26 IR 1261</b>	105 IAC 12-2-18	N	03-58	26 IR 3080
				105 IAC 12-2-19	N	03-58	26 IR 3080
				105 IAC 12-2-20	N	03-58	26 IR 3080
				105 IAC 12-2-21	N	03-58	26 IR 3081
				105 IAC 12-3-1	A	03-58	26 IR 3082
				105 IAC 12-3-2	A	03-58	26 IR 3082
				105 IAC 12-3-4	A	03-58	26 IR 3082
				105 IAC 12-3-5	A	03-58	26 IR 3083
				105 IAC 12-4-3	A	03-58	26 IR 3084
				105 IAC 12-4-4	A	03-58	26 IR 3084
				105 IAC 12-4-5	A	03-58	26 IR 3084
<b>TITLE 71 INDIANA HORSE RACING COMMISSION</b>				<b>TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY</b>			
71 IAC 1-1-41.5	N	02-282	*ER (26 IR 394)	135 IAC 2	RA	02-175	25 IR 4219
71 IAC 1.5-1-37.5	N	02-282	*ER (26 IR 394)	135 IAC 2-1-1	A	02-171	25 IR 4138
			*ERR (26 IR 793)	135 IAC 2-2-1	A	02-171	25 IR 4140
71 IAC 3-2-9	A	03-52	*ER (26 IR 2380)	135 IAC 2-2-3	A	02-171	25 IR 4140
71 IAC 3.5-2-9	A	03-52	*ER (26 IR 2380)	135 IAC 2-2-5	A	02-171	25 IR 4140
71 IAC 4-2-4	A	03-52	*ER (26 IR 2380)	135 IAC 2-2-10	A	02-171	25 IR 4141
71 IAC 4-2-5	A	03-52	*ER (26 IR 2381)	135 IAC 2-2-12	A	02-171	25 IR 4141
71 IAC 4-3-1	A	03-52	*ER (26 IR 2381)	135 IAC 2-3-1	A	02-171	25 IR 4141
71 IAC 4.5-2-4	A	03-52	*ER (26 IR 2381)	135 IAC 2-3-2	A	02-171	25 IR 4141
71 IAC 4.5-2-5	A	03-52	*ER (26 IR 2382)				
71 IAC 4.5-3-1	A	03-52	*ER (26 IR 2382)				
71 IAC 5.5-4-4	A	03-52	*ER (26 IR 2382)				
71 IAC 5.5-5-3	A	02-250	*ER (26 IR 55)				
71 IAC 6.5-1-4	A	02-250	*ER (26 IR 55)				
71 IAC 7-1-15	A	03-52	*ER (26 IR 2383)				
71 IAC 7-1-28	A	03-52	*ER (26 IR 2383)				
71 IAC 7-1-37	R	03-52	*ER (26 IR 2388)				
71 IAC 7.5-1-4	A	03-52	*ER (26 IR 2383)				
71 IAC 7.5-1-14	N	03-52	*ER (26 IR 2383)				

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135 IAC 2-4-1	A	02-171	25 IR 4141	
135 IAC 2-4-4	A	02-171	25 IR 4142	
135 IAC 2-5-1	A	02-171	25 IR 4142	
135 IAC 2-5-2	A	02-171	25 IR 4142	
135 IAC 2-6-1	A	02-171	25 IR 4148	
135 IAC 2-7-1	A	02-171	25 IR 4148	
135 IAC 2-7-3	A	02-171	25 IR 4148	
135 IAC 2-7-7	A	02-171	25 IR 4148	
135 IAC 2-7-11	A	02-171	25 IR 4149	
135 IAC 2-7-15	A	02-171	25 IR 4149	
135 IAC 2-7-18	A	02-171	25 IR 4149	
135 IAC 2-7-19	R	02-171	25 IR 4151	
135 IAC 2-7-20	A	02-171	25 IR 4149	
135 IAC 2-7-23	A	02-171	25 IR 4149	
135 IAC 2-8-1	A	02-171	25 IR 4149	
135 IAC 2-8-3	A	02-171	25 IR 4150	
135 IAC 2-8-5	A	02-171	25 IR 4150	
135 IAC 2-8-7	A	02-171	25 IR 4150	
135 IAC 2-8-11	A	02-171	25 IR 4150	
135 IAC 2-10-1	A	02-171	25 IR 4151	
135 IAC 2-10-2	A	02-171	25 IR 4151	
135 IAC 3	RA	02-175	25 IR 4219	<b>26 IR 882</b>

### TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 4-1-26	A	02-44	25 IR 2751	<b>26 IR 328</b>
170 IAC 7-1.2				*ERR (26 IR 382)
170 IAC 7-1.3				*ERR (26 IR 382)
170 IAC 7-1.3-2				*ERR (26 IR 1565)
				*ERR (26 IR 2375)

### TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1-6-1	A	02-259	26 IR 817	
210 IAC 1-6-2	A	02-259	26 IR 818	
210 IAC 1-6-3	R	02-259	26 IR 829	
210 IAC 1-6-4	A	02-259	26 IR 818	
210 IAC 1-6-5	A	02-259	26 IR 819	
210 IAC 1-6-6	A	02-259	26 IR 820	
210 IAC 1-6-7	A	02-259	26 IR 821	
210 IAC 1-10	N	02-259	26 IR 821	
210 IAC 5-1-1	A	02-259	26 IR 823	
210 IAC 5-1-2	A	02-259	26 IR 824	
210 IAC 5-1-3	A	02-259	26 IR 824	
210 IAC 5-1-4	A	02-259	26 IR 827	
210 IAC 6-1-1	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-2-1	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-2	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-3	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-2-4	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-2-5	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-2-6	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-7	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-8	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-9	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-10	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-11	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-12	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-2-13	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-3-1	A	02-173	25 IR 4152	<b>26 IR 1064</b>
210 IAC 6-3-2	A	02-173	25 IR 4153	<b>26 IR 1065</b>
210 IAC 6-3-3	A	02-173	25 IR 4153	<b>26 IR 1065</b>
210 IAC 6-3-4	A	02-173	25 IR 4154	<b>26 IR 1066</b>
210 IAC 6-3-5	A	02-173	25 IR 4155	<b>26 IR 1067</b>
210 IAC 6-3-6	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-3-7	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-3-8	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 6-3-9	A	02-173	25 IR 4155	<b>26 IR 1067</b>
210 IAC 6-3-10	A	02-173	25 IR 4155	<b>26 IR 1068</b>

210 IAC 6-3-11	A	02-173	25 IR 4155	<b>26 IR 1068</b>
210 IAC 6-3-12	RA	02-174	25 IR 4219	<b>26 IR 882</b>
210 IAC 7	RA	03-54	26 IR 3147	

### TITLE 240 STATE POLICE DEPARTMENT

240 IAC 1-4-3	RA	03-98	26 IR 3425	
240 IAC 1-4-24.1	RA	03-98	26 IR 3425	
240 IAC 7-1-6	RA	02-139	25 IR 3882	<b>26 IR 546</b>

### TITLE 250 LAW ENFORCEMENT TRAINING BOARD

250 IAC 1-1.1	RA	02-149	25 IR 3882	
250 IAC 1-2	RA	02-149	25 IR 3882	
250 IAC 1-3-1	RA	02-149	25 IR 3882	
250 IAC 1-3-3	RA	02-149	25 IR 3882	
250 IAC 1-3-6	RA	02-149	25 IR 3882	
250 IAC 1-3-7	RA	02-149	25 IR 3882	
250 IAC 1-3-8	RA	02-149	25 IR 3882	
250 IAC 1-3-9	RA	02-149	25 IR 3882	
250 IAC 1-3-10	RA	02-149	25 IR 3882	
250 IAC 1-3-11	RA	02-149	25 IR 3882	
250 IAC 1-3-12	RA	02-149	25 IR 3882	
250 IAC 1-3-13	RA	02-149	25 IR 3882	
250 IAC 1-5	RA	02-149	25 IR 3882	
250 IAC 1-5.1	RA	02-149	25 IR 3882	
250 IAC 1-5.2	RA	02-149	25 IR 3882	
250 IAC 1-5.3	RA	02-149	25 IR 3882	
250 IAC 1-5.4	RA	02-149	25 IR 3882	
250 IAC 1-5.5	RA	02-149	25 IR 3882	
250 IAC 1-6-1	RA	02-149	25 IR 3882	
250 IAC 1-6-2	RA	02-149	25 IR 3882	
250 IAC 1-6-3	RA	02-149	25 IR 3882	
250 IAC 1-6-4	RA	02-149	25 IR 3882	
250 IAC 1-6-5	RA	02-149	25 IR 3882	
250 IAC 1-6-6	RA	02-149	25 IR 3882	
250 IAC 1-7	RA	02-149	25 IR 3882	

### TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2-6	A	02-328	26 IR 1598	
305 IAC 1-3-4	A	02-328	26 IR 1599	
305 IAC 1-4-1	A	02-328	26 IR 1599	
305 IAC 1-4-2	A	02-328	26 IR 1599	
305 IAC 1-5	N	02-328	26 IR 1600	

### TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

307 IAC	N	03-32	26 IR 2652	
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### TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	<b>26 IR 546</b>
312 IAC 2-4-1	A	02-236	26 IR 1126	<b>26 IR 3318</b>
312 IAC 2-4-2	A	02-236	26 IR 1126	<b>26 IR 3318</b>
312 IAC 2-4-4	A	02-236	26 IR 1127	<b>26 IR 3318</b>
312 IAC 2-4-6	A	02-236	26 IR 1127	<b>26 IR 3319</b>
312 IAC 2-4-7	A	02-236	26 IR 1127	<b>26 IR 3319</b>
312 IAC 2-4-8	R	02-236	26 IR 1131	<b>26 IR 3323</b>
312 IAC 2-4-9	A	02-236	26 IR 1128	<b>26 IR 3319</b>
312 IAC 2-4-9.5	A	02-236	26 IR 1128	<b>26 IR 3320</b>
312 IAC 2-4-10	R	02-236	26 IR 1131	<b>26 IR 3323</b>
312 IAC 2-4-12	A	02-236	26 IR 1128	<b>26 IR 3320</b>
312 IAC 2-4-13	N	02-236	26 IR 1129	<b>26 IR 3321</b>
312 IAC 3	RA	02-72	25 IR 3461	<b>26 IR 546</b>
312 IAC 3-1-1	A	02-2	25 IR 2552	<b>26 IR 7</b>
312 IAC 3-1-2	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-3	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-8	A	02-2	25 IR 2553	<b>26 IR 8</b>
312 IAC 3-1-12	A	02-294	26 IR 1131	<b>26 IR 3323</b>
312 IAC 3-1-14	A	02-2	25 IR 2554	<b>26 IR 9</b>
312 IAC 3-1-18	A	02-2	25 IR 2554	<b>26 IR 9</b>
312 IAC 5-2-47	A	03-24	26 IR 2401	

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312 IAC 5-3-1	A	02-236	26 IR 1130	<b>26 IR 3321</b>	326 IAC 2-6-2	A	01-249	24 IR 3700	*CPH (24 IR 4012)
312 IAC 5-3-2	A	02-236	26 IR 1130	<b>26 IR 3322</b>	326 IAC 2-6-3	A	01-249	24 IR 3702	*CPH (24 IR 4012)
312 IAC 5-3-3	A	02-236	26 IR 1130	<b>26 IR 3322</b>	326 IAC 2-6-4	A	01-249	24 IR 3703	*CPH (24 IR 4012)
312 IAC 5-6-6	A	02-162	25 IR 4165	<b>26 IR 1900</b>					*ERR (26 IR 1566)
	A	03-29	26 IR 2660			A	02-337	26 IR 2005	
312 IAC 5-13-2	A	03-24	26 IR 2401		326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
312 IAC 6	RA	02-331	26 IR 2133		326 IAC 2-7-3				*ERR (26 IR 1566)
312 IAC 7	RA	02-331	26 IR 2133			A	02-337	26 IR 2006	
312 IAC 8-1-2	A	03-50	26 IR 3085		326 IAC 2-7-8				*ERR (26 IR 1566)
312 IAC 8-1-4	A	03-50	26 IR 3085			A	02-337	26 IR 2006	
312 IAC 8-2-3	A	03-50	26 IR 3086		326 IAC 2-7-18				*ERR (26 IR 1566)
312 IAC 8-2-6	A	03-50	26 IR 3088			A	02-337	26 IR 2007	
312 IAC 8-2-9	A	03-50	26 IR 3088		326 IAC 2-8-3				*ERR (26 IR 1566)
312 IAC 8-2-11	A	03-50	26 IR 3088			A	02-337	26 IR 2008	
312 IAC 9	RA	02-331	26 IR 2133		326 IAC 2-9-7				*ERR (26 IR 1566)
312 IAC 9-2-11	A	03-50	26 IR 3089			A	02-337	26 IR 2009	
312 IAC 9-2-13	A	02-68	25 IR 2751	<b>26 IR 1068</b>	326 IAC 2-9-8				*ERR (26 IR 1566)
312 IAC 9-6-1	A	02-318	26 IR 1966			A	02-337	26 IR 2010	
312 IAC 9-6-7	A	02-318	26 IR 1967		326 IAC 2-9-9				*ERR (26 IR 1566)
312 IAC 9-10-3	A	03-35	26 IR 3374			A	02-337	26 IR 2012	
312 IAC 9-10-4	A	02-232	26 IR 1602	*AWR (26 IR 3347)	326 IAC 2-9-10				*ERR (26 IR 1566)
312 IAC 9-10-6	A	02-68	25 IR 2752	<b>26 IR 1069</b>		A	02-337	26 IR 2013	
312 IAC 9-10-11	A	01-444	25 IR 2551	<b>26 IR 692</b>	326 IAC 2-9-13				*ERR (26 IR 1566)
312 IAC 9-11-14	A	02-322	26 IR 1603	<b>26 IR 3324</b>		A	02-337	26 IR 2014	
312 IAC 11-5-1	A	03-30	26 IR 2661		326 IAC 3-4-1				*ERR (26 IR 1566)
312 IAC 12-3-2				*ERR (26 IR 1565)		A	02-337	26 IR 2016	
312 IAC 14	RA	02-331	26 IR 2133		326 IAC 3-4-3				*ERR (26 IR 1566)
312 IAC 15	RA	02-331	26 IR 2133			A	02-337	26 IR 2016	
312 IAC 16-3-2	A	02-73	25 IR 4156	<b>26 IR 1896</b>	326 IAC 3-5-2				*ERR (26 IR 1566)
312 IAC 16-3-5	N	02-73	25 IR 4158	<b>26 IR 1898</b>		A	02-337	26 IR 2017	
312 IAC 16-4-1	A	02-73	25 IR 4158	<b>26 IR 1898</b>	326 IAC 3-5-3				*ERR (26 IR 1567)
312 IAC 16-4-2	A	02-73	25 IR 4159	<b>26 IR 1898</b>		A	02-337	26 IR 2019	
312 IAC 16-4-5	A	02-73	25 IR 4159	<b>26 IR 1899</b>	326 IAC 3-5-4				*ERR (26 IR 1567)
312 IAC 18	RA	02-72	25 IR 3461	<b>26 IR 546</b>		A	02-337	26 IR 2019	
312 IAC 18-3-8	A	02-202	26 IR 1123	<b>26 IR 3315</b>	326 IAC 3-5-5				*ERR (26 IR 1567)
312 IAC 18-3-12	A	02-201	26 IR 1121	<b>26 IR 3313</b>		A	02-337	26 IR 2020	
312 IAC 18-5-4	A	03-91	26 IR 3375		326 IAC 3-6-1				*ERR (26 IR 1567)
312 IAC 20-2-1.7	N	03-12	26 IR 3084			A	02-337	26 IR 2022	
312 IAC 20-2-4.3	N	03-12	26 IR 3084		326 IAC 3-6-3				*ERR (26 IR 1567)
312 IAC 20-2-4.7	N	03-12	26 IR 3085			A	02-337	26 IR 2022	
312 IAC 20-3-3	N	03-12	26 IR 3085		326 IAC 3-6-5				*ERR (26 IR 1567)
312 IAC 20-5	N	02-329	26 IR 2658			A	02-337	26 IR 2023	
312 IAC 22.5				*ERR (26 IR 383)	326 IAC 3-7-2				*ERR (26 IR 1567)
312 IAC 24	RA	02-331	26 IR 2133			A	02-337	26 IR 2024	
312 IAC 25-1-45.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)	326 IAC 3-7-4				*ERR (26 IR 1567)
312 IAC 25-1-60.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)		A	02-337	26 IR 2025	
312 IAC 25-4-43	A	02-104	25 IR 4160	*AROC (26 IR 1736)	326 IAC 4-1-4.1				<b>26 IR 1077</b>
312 IAC 25-4-47	A	02-104	25 IR 4161	*AROC (26 IR 1736)	326 IAC 4-1-8	A	02-88	25 IR 3240	*ERR (26 IR 1567)
312 IAC 25-4-85	A	02-104	25 IR 4162	*AROC (26 IR 1736)	326 IAC 4-2-1	A	00-44	24 IR 2754	*CPH (25 IR 2542)
312 IAC 25-4-93	A	02-104	25 IR 4163	*AROC (26 IR 1736)					*CPH (25 IR 3208)
312 IAC 25-6-12.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)					<b>26 IR 1071</b>
312 IAC 25-6-76.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)	326 IAC 4-2-2	A	00-44	24 IR 2754	*CPH (25 IR 2542)
									*CPH (25 IR 3208)
<b>TITLE 326 AIR POLLUTION CONTROL BOARD</b>									
326 IAC 1-1-3	A	02-337	26 IR 1997		326 IAC 5-1-2				*ERR (26 IR 1567)
326 IAC 1-1-3.5	A	02-337	26 IR 1997			A	01-407	26 IR 2026	*CPH (26 IR 2391)
326 IAC 1-2-65	A	02-337	26 IR 1997		326 IAC 5-1-4				*ERR (26 IR 1567)
326 IAC 1-2-90	A	02-337	26 IR 1998			A	02-337	26 IR 2026	
326 IAC 1-3-4	A	03-69	26 IR 3376		326 IAC 5-1-5				*ERR (26 IR 1567)
326 IAC 1-4-1	A	02-88	25 IR 3240	<b>26 IR 1077</b>		A	02-337	26 IR 2027	
	A	03-70	26 IR 3092		326 IAC 6-1-1				*ERR (26 IR 383)
326 IAC 1-5-2				*ERR (26 IR 1565)	326 IAC 6-1-10.1	A	01-407	26 IR 1970	*CPH (26 IR 2391)
326 IAC 2-2-13				*ERR (26 IR 1565)	326 IAC 6-1-10.2	A	01-407	26 IR 1994	*CPH (26 IR 2391)
	A	02-337	26 IR 1998		326 IAC 6-1-14	A	02-122	26 IR 98	*CPH (26 IR 811)
326 IAC 2-2-16				*ERR (26 IR 1565)					<b>26 IR 2318</b>
	A	02-337	26 IR 1999		326 IAC 6-2-3				*ERR (26 IR 1567)
326 IAC 2-3-1				*ERR (26 IR 1565)	326 IAC 6-4-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2000		326 IAC 6-5-7				*ERR (26 IR 1568)
326 IAC 2-6-1	A	01-249	24 IR 3700	*CPH (24 IR 4012)	326 IAC 6-6-2				*ERR (26 IR 1568)

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326 IAC 6-6-4			*ERR (26 IR 1568)	326 IAC 10-4-10	A	02-54	26 IR 1148	*CPH (26 IR 2391)
326 IAC 7-2-1			*ERR (26 IR 1565)	326 IAC 10-4-12				*ERR (26 IR 1569)
326 IAC 7-4-10	A	02-337	26 IR 2028	326 IAC 10-4-13	A	02-54	26 IR 1152	*CPH (26 IR 2391)
				326 IAC 10-4-14	A	02-54	26 IR 1155	*CPH (26 IR 2391)
326 IAC 7-4-14	A	02-337	26 IR 2029	326 IAC 10-4-15	A	02-54	26 IR 1156	*CPH (26 IR 2391)
326 IAC 7-4-14			*ERR (26 IR 1568)	326 IAC 11-3-4				*ERR (26 IR 1569)
326 IAC 8-1-2	A	01-251	25 IR 2754		A	01-407	26 IR 2060	*CPH (26 IR 2391)
326 IAC 8-1-4			<b>26 IR 1073</b>	326 IAC 11-4-5	A	00-43	25 IR 2285	<b>26 IR 10</b>
			*ERR (26 IR 1565)	326 IAC 11-5	R	99-177	25 IR 1984	<b>26 IR 10</b>
326 IAC 8-2-9	A	02-88	25 IR 3241	326 IAC 11-7-1	A	02-337	26 IR 2061	
326 IAC 8-4-6	A	02-337	26 IR 2032	326 IAC 13-1.1-1				*ERR (26 IR 1570)
326 IAC 8-4-9			*ERR (26 IR 1568)	326 IAC 13-1.1-8	A	02-337	26 IR 2062	*ERR (26 IR 1570)
326 IAC 8-7-7			*ERR (26 IR 1568)	326 IAC 13-1.1-10	A	02-337	26 IR 2063	*ERR (26 IR 1570)
326 IAC 8-7-10	A	02-337	26 IR 2036	326 IAC 13-1.1-13	A	02-337	26 IR 2063	*ERR (26 IR 1570)
326 IAC 8-8.1-1			*ERR (26 IR 1568)	326 IAC 13-1.1-14	A	02-337	26 IR 2064	*ERR (26 IR 1570)
326 IAC 8-9-2			*ERR (26 IR 1568)	326 IAC 13-1.1-16	A	02-337	26 IR 2065	*ERR (26 IR 1570)
326 IAC 8-9-3	A	02-337	26 IR 2037	326 IAC 13-2.1-3				*ERR (26 IR 1570)
326 IAC 8-9-4	A	02-337	26 IR 2037	326 IAC 13-3-1	A	02-88	25 IR 3242	<b>26 IR 1079</b>
326 IAC 8-9-5	A	02-337	26 IR 2040	326 IAC 13-3-2				*ERR (26 IR 1570)
326 IAC 8-9-6			*ERR (26 IR 1568)	326 IAC 13-3-5				*ERR (26 IR 1570)
			*ERR (26 IR 1568)	326 IAC 13-3-6				*ERR (26 IR 1570)
326 IAC 8-10-5			*ERR (26 IR 1568)	326 IAC 14-1-1	A	02-337	26 IR 2066	
326 IAC 8-10-6			*ERR (26 IR 1568)	326 IAC 14-1-2	A	02-337	26 IR 2067	
326 IAC 8-10-7			*ERR (26 IR 1568)	326 IAC 14-1-4	R	02-337	26 IR 2099	
326 IAC 8-11-2	A	02-337	26 IR 2044	326 IAC 14-3-1				*ERR (26 IR 1570)
			*ERR (26 IR 1568)	326 IAC 14-4-1	A	02-337	26 IR 2067	*ERR (26 IR 1571)
326 IAC 8-11-3	A	02-337	26 IR 2044	326 IAC 14-5-1	A	02-337	26 IR 2067	*ERR (26 IR 1571)
326 IAC 8-11-6			*ERR (26 IR 1568)	326 IAC 14-6-1	A	02-337	26 IR 2068	*ERR (26 IR 1571)
326 IAC 8-11-7	A	02-337	26 IR 2046	326 IAC 14-7-1				*ERR (26 IR 1571)
326 IAC 8-12-3	A	02-337	26 IR 2050		A	02-337	26 IR 2068	
326 IAC 8-12-5	A	02-337	26 IR 2050	326 IAC 14-8-1	A	02-337	26 IR 2068	
326 IAC 8-12-6			*ERR (26 IR 1569)	326 IAC 14-8-3	A	02-337	26 IR 2069	
			*ERR (26 IR 1569)	326 IAC 14-8-4	A	02-337	26 IR 2069	
326 IAC 8-12-7	A	02-337	26 IR 2052	326 IAC 14-8-5	A	02-337	26 IR 2069	
326 IAC 8-13-5	A	02-337	26 IR 2053	326 IAC 14-9-5	A	02-337	26 IR 2070	
326 IAC 9-1-1	A	02-337	26 IR 2054	326 IAC 14-9-7				*ERR (26 IR 1571)
			*ERR (26 IR 1569)	326 IAC 14-9-8	A	02-337	26 IR 2071	*ERR (26 IR 1571)
326 IAC 9-1-2	A	02-337	26 IR 2055	326 IAC 14-9-9				*ERR (26 IR 1571)
			*ERR (26 IR 1569)	326 IAC 14-10-1	A	02-337	26 IR 2071	*ERR (26 IR 1571)
326 IAC 9-1-1	A	00-44	24 IR 2777	326 IAC 14-10-2	A	02-337	26 IR 2072	*ERR (26 IR 1571)
			*CPH (25 IR 2542)	326 IAC 14-10-3	A	02-337	26 IR 2074	*ERR (26 IR 1571)
			*CPH (25 IR 3208)	326 IAC 14-10-4	A	02-337	26 IR 2076	*ERR (26 IR 1571)
			<b>26 IR 1072</b>	326 IAC 15-1-2	A	02-337	26 IR 2078	*ERR (26 IR 1565)
326 IAC 9-1-2	A	00-44	24 IR 2777	326 IAC 15-1-4	A	02-337	26 IR 2080	*ERR (26 IR 1571)
			*CPH (25 IR 2542)	326 IAC 16-2-3				*ERR (26 IR 1571)
			*CPH (25 IR 3208)	326 IAC 16-3-1				*ERR (26 IR 1571)
326 IAC 10-1-2			*ERR (26 IR 1569)		A	02-337	26 IR 2084	
326 IAC 10-1-4	A	02-337	26 IR 2056	326 IAC 18-1-2	A	02-337	26 IR 2084	*ERR (26 IR 1572)
326 IAC 10-1-5	A	02-337	26 IR 2057	326 IAC 18-1-5	A	02-337	26 IR 2084	*ERR (26 IR 1572)
326 IAC 10-1-6	A	02-337	26 IR 2059	326 IAC 18-1-7	A	02-337	26 IR 2086	*ERR (26 IR 1572)
			*ERR (26 IR 1569)		A	02-337	26 IR 2087	
326 IAC 10-3-1	A	02-337	26 IR 2059					
326 IAC 10-3-3	A	02-54	26 IR 1134					
326 IAC 10-4-1	A	02-54	26 IR 1134					
326 IAC 10-4-2	A	02-54	26 IR 1136					
326 IAC 10-4-3			*ERR (26 IR 1569)					
326 IAC 10-4-4			*ERR (26 IR 1569)					
326 IAC 10-4-4			*ERR (26 IR 1569)					
326 IAC 10-4-8			*ERR (26 IR 1569)					
326 IAC 10-4-9	A	02-54	26 IR 1142					
			*CPH (26 IR 2391)					

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326 IAC 18-1-8	A	02-337	26 IR 2088		326 IAC 23-1-58.5	N	02-189	26 IR 2412
326 IAC 18-2-2				*ERR (26 IR 1572)	326 IAC 23-1-58.7	N	02-189	26 IR 2412
	A	02-337	26 IR 2088		326 IAC 23-1-60.1	N	02-189	26 IR 2412
326 IAC 18-2-3				*ERR (26 IR 1572)	326 IAC 23-1-60.5	N	02-189	26 IR 2412
	A	02-337	26 IR 2090		326 IAC 23-1-60.6	N	02-189	26 IR 2413
326 IAC 18-2-6	A	02-337	26 IR 2096		326 IAC 23-1-61.5	N	02-189	26 IR 2413
326 IAC 18-2-7	A	02-337	26 IR 2097		326 IAC 23-1-62.5	N	02-189	26 IR 2413
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)	326 IAC 23-1-62.6	N	02-189	26 IR 2413
				*CPH (25 IR 3208)	326 IAC 23-1-63	A	02-189	26 IR 2413
				<b>26 IR 1073</b>	326 IAC 23-1-64	A	02-189	26 IR 2414
326 IAC 20-25-1	A	02-55	26 IR 92	*CPH (26 IR 811)	326 IAC 23-1-69.5	N	02-189	26 IR 2414
				<b>26 IR 2607</b>	326 IAC 23-1-69.6	N	02-189	26 IR 2414
326 IAC 20-25-3	A	02-55	26 IR 92	*CPH (26 IR 811)	326 IAC 23-1-69.7	N	02-189	26 IR 2414
				<b>26 IR 2607</b>	326 IAC 23-1-71	N	02-189	26 IR 2414
326 IAC 20-25-4	A	02-55	26 IR 94	*CPH (26 IR 811)	326 IAC 23-2-1	A	02-189	26 IR 2414
				<b>26 IR 2609</b>	326 IAC 23-2-3	A	02-189	26 IR 2415
326 IAC 20-25-5	A	02-55	26 IR 94	*CPH (26 IR 811)	326 IAC 23-2-4	A	02-189	26 IR 2416
				<b>26 IR 2610</b>	326 IAC 23-2-5	A	02-189	26 IR 2418
326 IAC 20-25-7	A	02-55	26 IR 95	*CPH (26 IR 811)	326 IAC 23-2-6	A	02-189	26 IR 2419
				<b>26 IR 2610</b>	326 IAC 23-2-6.5	N	02-189	26 IR 2419
326 IAC 20-48	N	02-55	26 IR 95	*CPH (26 IR 811)	326 IAC 23-2-7	A	02-189	26 IR 2420
				<b>26 IR 2611</b>	326 IAC 23-2-8	A	02-189	26 IR 2421
326 IAC 20-49	N	02-336	26 IR 3090		326 IAC 23-2-9	A	02-189	26 IR 2422
326 IAC 20-50	N	02-336	26 IR 3090		326 IAC 23-3-1	A	02-189	26 IR 2422
326 IAC 20-51	N	02-336	26 IR 3090		326 IAC 23-3-2	A	02-189	26 IR 2422
326 IAC 20-52	N	02-336	26 IR 3091		326 IAC 23-3-3	A	02-189	26 IR 2423
326 IAC 20-53	N	02-336	26 IR 3091		326 IAC 23-3-5	A	02-189	26 IR 2426
326 IAC 20-54	N	02-336	26 IR 3091		326 IAC 23-3-7	A	02-189	26 IR 2426
326 IAC 20-55	N	02-336	26 IR 3091		326 IAC 23-3-11	A	02-189	26 IR 2428
326 IAC 22-1-1				*ERR (26 IR 1572)	326 IAC 23-3-12	A	02-189	26 IR 2428
	A	02-337	26 IR 2098		326 IAC 23-3-13	A	02-189	26 IR 2428
326 IAC 23-1-4	A	02-189	26 IR 2407		326 IAC 23-4-1	A	02-189	26 IR 2429
326 IAC 23-1-5	A	02-189	26 IR 2408		326 IAC 23-4-2	A	02-189	26 IR 2429
326 IAC 23-1-5.5	N	02-189	26 IR 2408		326 IAC 23-4-3	A	02-189	26 IR 2429
326 IAC 23-1-6.5	N	02-189	26 IR 2408		326 IAC 23-4-4	A	02-189	26 IR 2430
326 IAC 23-1-7.5	N	02-189	26 IR 2408		326 IAC 23-4-5	A	02-189	26 IR 2431
326 IAC 23-1-7.6	N	02-189	26 IR 2408		326 IAC 23-4-6	A	02-189	26 IR 2432
326 IAC 23-1-9	A	02-189	26 IR 2408		326 IAC 23-4-7	A	02-189	26 IR 2434
326 IAC 23-1-10	A	02-189	26 IR 2409		326 IAC 23-4-9	A	02-189	26 IR 2434
326 IAC 23-1-11	A	02-189	26 IR 2409		326 IAC 23-4-11	A	02-189	26 IR 2435
326 IAC 23-1-11.5	N	02-189	26 IR 2409		326 IAC 23-4-12	A	02-189	26 IR 2435
326 IAC 23-1-12.5	N	02-189	26 IR 2409		326 IAC 23-4-13	A	02-189	26 IR 2435
326 IAC 23-1-17	A	02-189	26 IR 2409		326 IAC 23-5	N	02-189	26 IR 2436
326 IAC 23-1-21	A	02-189	26 IR 2410					
326 IAC 23-1-21.5	N	02-189	26 IR 2410		TITLE 327 WATER POLLUTION CONTROL BOARD			
326 IAC 23-1-22	R	02-189	26 IR 2437		327 IAC 5-1-1.5	A	02-327	26 IR 3097
326 IAC 23-1-23	R	02-189	26 IR 2437		327 IAC 5-2-9	A	00-136	26 IR 427
326 IAC 23-1-26.5	N	02-189	26 IR 2410		327 IAC 5-2.1	N	00-136	26 IR 427
326 IAC 23-1-27	A	02-189	26 IR 2410		327 IAC 5-4-6	A	01-96	26 IR 845
326 IAC 23-1-27.5	N	02-189	26 IR 2410		327 IAC 6.1-1-1	A	01-238	26 IR 1165
326 IAC 23-1-31	A	02-337	26 IR 2099		327 IAC 6.1-1-3	A	01-238	26 IR 1166
326 IAC 23-1-32.1	N	02-189	26 IR 2410		327 IAC 6.1-1-4	A	01-238	26 IR 1166
326 IAC 23-1-32.2	N	02-189	26 IR 2411		327 IAC 6.1-1-5	A	01-238	26 IR 1167
326 IAC 23-1-34	A	02-189	26 IR 2411		327 IAC 6.1-1-7	A	01-238	26 IR 1167
326 IAC 23-1-34.5	N	02-189	26 IR 2411		327 IAC 6.1-2-3	A	01-238	26 IR 1167
326 IAC 23-1-34.8	N	02-189	26 IR 2411		327 IAC 6.1-2-6	A	01-238	26 IR 1167
326 IAC 23-1-37	R	02-189	26 IR 2437		327 IAC 6.1-2-7	A	01-238	26 IR 1167
326 IAC 23-1-40	R	02-189	26 IR 2437		327 IAC 6.1-2-7.5	N	01-238	26 IR 1167
326 IAC 23-1-42	R	02-189	26 IR 2437		327 IAC 6.1-2-8	A	01-238	26 IR 1168
326 IAC 23-1-43	R	02-189	26 IR 2437		327 IAC 6.1-2-10	R	01-238	26 IR 1201
326 IAC 23-1-44	R	02-189	26 IR 2437		327 IAC 6.1-2-12	R	01-238	26 IR 1201
326 IAC 23-1-45	R	02-189	26 IR 2437		327 IAC 6.1-2-13	A	01-238	26 IR 1168
326 IAC 23-1-46	R	02-189	26 IR 2437		327 IAC 6.1-2-14	A	01-238	26 IR 1168
326 IAC 23-1-47	R	02-189	26 IR 2437		327 IAC 6.1-2-20.5	N	01-238	26 IR 1168
326 IAC 23-1-48.5	N	02-189	26 IR 2411		327 IAC 6.1-2-28	A	01-238	26 IR 1169
326 IAC 23-1-52	A	02-189	26 IR 2411		327 IAC 6.1-2-30	A	01-238	26 IR 1169
326 IAC 23-1-52.5	N	02-189	26 IR 2411		327 IAC 6.1-2-31.5	N	01-238	26 IR 1169
326 IAC 23-1-54.5	N	02-189	26 IR 2412		327 IAC 6.1-2-35	A	01-238	26 IR 1169
326 IAC 23-1-55.5	N	02-189	26 IR 2412		327 IAC 6.1-2-42	A	01-238	26 IR 1169

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327 IAC 6.1-2-43	A	01-238	26 IR 1170		327 IAC 8-2-48	N	01-348	26 IR 111	*CPH (26 IR 812)
327 IAC 6.1-2-54	A	01-238	26 IR 1170						<b>26 IR 2818</b>
327 IAC 6.1-2-55	A	01-238	26 IR 1170		327 IAC 8-2.1-3	A	01-348	26 IR 112	*CPH (26 IR 812)
327 IAC 6.1-2-55.5	N	01-238	26 IR 1170						<b>26 IR 2818</b>
327 IAC 6.1-2-61	R	01-238	26 IR 1201		327 IAC 8-2.1-4	A	01-348	26 IR 114	*CPH (26 IR 812)
327 IAC 6.1-3-1	A	01-238	26 IR 1170						<b>26 IR 2821</b>
327 IAC 6.1-3-2	A	01-238	26 IR 1171		327 IAC 8-2.1-6	A	01-348	26 IR 115	*CPH (26 IR 812)
327 IAC 6.1-3-3	A	01-238	26 IR 1172						<b>26 IR 2822</b>
327 IAC 6.1-3-4	A	01-238	26 IR 1172		327 IAC 8-2.1-8	A	01-348	26 IR 121	*CPH (26 IR 812)
327 IAC 6.1-3-7	A	01-238	26 IR 1172						<b>26 IR 2828</b>
327 IAC 6.1-3-8	N	01-238	26 IR 1173		327 IAC 8-2.1-16	A	01-348	26 IR 122	*CPH (26 IR 812)
327 IAC 6.1-4-1	A	01-238	26 IR 1173						<b>26 IR 2829</b>
327 IAC 6.1-4-3	A	01-238	26 IR 1173		327 IAC 8-2.1-17	A	01-348	26 IR 126	*CPH (26 IR 812)
327 IAC 6.1-4-4	A	01-238	26 IR 1174						<b>26 IR 2833</b>
327 IAC 6.1-4-5	A	01-238	26 IR 1175		327 IAC 8-2.5	N	01-348	26 IR 133	*CPH (26 IR 812)
327 IAC 6.1-4-5.5	N	01-238	26 IR 1175						<b>26 IR 2840</b>
327 IAC 6.1-4-6	A	01-238	26 IR 1176		327 IAC 8-2.6	N	01-348	26 IR 146	*CPH (26 IR 812)
327 IAC 6.1-4-7	A	01-238	26 IR 1177						<b>26 IR 2854</b>
327 IAC 6.1-4-8	A	01-238	26 IR 1178		327 IAC 15-2-3	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-9	A	01-238	26 IR 1179						*CPH (26 IR 2392)
327 IAC 6.1-4-10	A	01-238	26 IR 1181						*CPH (26 IR 2645)
327 IAC 6.1-4-11	A	01-238	26 IR 1182		327 IAC 15-2-6	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-13	A	01-238	26 IR 1182						*CPH (26 IR 2392)
327 IAC 6.1-4-16	A	01-238	26 IR 1184						*CPH (26 IR 2645)
327 IAC 6.1-4-17	A	01-238	26 IR 1186		327 IAC 15-2-8	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-4-18	A	01-238	26 IR 1187						*CPH (26 IR 2392)
327 IAC 6.1-4-19	A	01-238	26 IR 1187						*CPH (26 IR 2645)
327 IAC 6.1-5-1	A	01-238	26 IR 1187		327 IAC 15-2-9	A	01-95	26 IR 1615	*CPH (26 IR 1961)
327 IAC 6.1-5-2	A	01-238	26 IR 1187						*CPH (26 IR 2392)
327 IAC 6.1-5-3	A	01-238	26 IR 1188						*CPH (26 IR 2645)
327 IAC 6.1-5-4	A	01-238	26 IR 1188		327 IAC 15-3-1	A	01-95	26 IR 1616	*CPH (26 IR 1961)
327 IAC 6.1-6-1	A	01-238	26 IR 1189						*CPH (26 IR 2392)
327 IAC 6.1-6-2	A	01-238	26 IR 1189						*CPH (26 IR 2645)
327 IAC 6.1-6-3	A	01-238	26 IR 1190		327 IAC 15-3-2	A	01-95	26 IR 1616	*CPH (26 IR 1961)
327 IAC 6.1-7-1	A	01-238	26 IR 1191						*CPH (26 IR 2392)
327 IAC 6.1-7-2	A	01-238	26 IR 1191						*CPH (26 IR 2645)
327 IAC 6.1-7-3	A	01-238	26 IR 1192		327 IAC 15-3-3	A	02-327	26 IR 3098	*CPH (26 IR 3366)
327 IAC 6.1-7-4	A	01-238	26 IR 1193			A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-7-5	A	01-238	26 IR 1193						*CPH (26 IR 2392)
327 IAC 6.1-7-6	A	01-238	26 IR 1194						*CPH (26 IR 2645)
327 IAC 6.1-7-9	A	01-238	26 IR 1195		327 IAC 15-5-1	A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-7-10	A	01-238	26 IR 1195						*CPH (26 IR 2392)
327 IAC 6.1-7-11	A	01-238	26 IR 1196						*CPH (26 IR 2645)
327 IAC 6.1-7-5	N	01-238	26 IR 1197		327 IAC 15-5-2	A	01-95	26 IR 1617	*CPH (26 IR 1961)
327 IAC 6.1-8-1	A	01-238	26 IR 1198						*CPH (26 IR 2392)
327 IAC 6.1-8-2	A	01-238	26 IR 1199						*CPH (26 IR 2645)
327 IAC 6.1-8-3	A	01-238	26 IR 1199		327 IAC 15-5-3	A	01-95	26 IR 1618	*CPH (26 IR 1961)
327 IAC 6.1-8-4	A	01-238	26 IR 1199						*CPH (26 IR 2392)
327 IAC 6.1-8-5	A	01-238	26 IR 1200						*CPH (26 IR 2645)
327 IAC 6.1-8-6	A	01-238	26 IR 1200		327 IAC 15-5-4	A	01-95	26 IR 1619	*CPH (26 IR 1961)
327 IAC 6.1-8-7	A	01-238	26 IR 1200						*CPH (26 IR 2392)
327 IAC 6.1-8-8	A	01-238	26 IR 1201						*CPH (26 IR 2645)
327 IAC 8-2-1	A	01-348	26 IR 101	*CPH (26 IR 812)	327 IAC 15-5-5	A	01-95	26 IR 1620	*CPH (26 IR 1961)
				<b>26 IR 2808</b>					*CPH (26 IR 2392)
327 IAC 8-2-5	A	01-348	26 IR 105	*CPH (26 IR 812)	327 IAC 15-5-6	A	01-95	26 IR 1621	*CPH (26 IR 1961)
				<b>26 IR 2812</b>					*CPH (26 IR 2392)
327 IAC 8-2-5.3	A	01-348	26 IR 107	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2814</b>	327 IAC 15-5-6.5	N	01-95	26 IR 1622	*CPH (26 IR 1961)
327 IAC 8-2-6	R	01-348	26 IR 152	*CPH (26 IR 812)					*CPH (26 IR 2392)
327 IAC 8-2-8.5	A	01-348	26 IR 109	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2816</b>	327 IAC 15-5-7	A	01-95	26 IR 1625	*CPH (26 IR 1961)
327 IAC 8-2-13	A	01-348	26 IR 110	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2817</b>	327 IAC 15-5-7.5	N	01-95	26 IR 1627	*CPH (26 IR 1961)
327 IAC 8-2-29	R	01-348	26 IR 152	*CPH (26 IR 812)					*CPH (26 IR 2392)
				<b>26 IR 2859</b>					*CPH (26 IR 2645)
327 IAC 8-2-30	A	01-348	26 IR 110	*CPH (26 IR 812)	327 IAC 15-5-8	A	01-95	26 IR 1628	*CPH (26 IR 1961)
				<b>26 IR 2817</b>					*CPH (26 IR 2392)
327 IAC 8-2-31	A	01-348	26 IR 111	*CPH (26 IR 812)					*CPH (26 IR 2645)
				<b>26 IR 2818</b>					

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327 IAC 15-5-10	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 3.1-12-2 329 IAC 9-1-1	A	01-161	26 IR 1209	*ERR (26 IR 3046) *CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-5-11	R	01-95	26 IR 1646	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-5-12	N	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-1	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-2	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-4	A	01-95	26 IR 1632	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-5	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-6	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-7	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-14.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-7.3	N	01-95	26 IR 1641	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-7.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-14.5	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-8.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-14.7	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-10	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-25	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-11	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-6-12	N	01-95	26 IR 1644	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)	329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-13	N	01-96	26 IR 847	*CPH (26 IR 1113)	329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
327 IAC 15-14	N	02-327	26 IR 3098	*CPH (26 IR 3366)	329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
TITLE 329 SOLID WASTE MANAGEMENT BOARD									
329 IAC 3.1-1-7	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367)	329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 3.1-4-1	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367)	329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 3.1-7-2	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367)	329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 3.1-7-15				*ERR (26 IR 3046)	329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 3.1-9-2	A	02-235	26 IR 1241	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367)					
329 IAC 3.1-10-2	A	02-235	26 IR 1242	*CPH (26 IR 1962) *CPH (26 IR 2647) *CPH (26 IR 3074) *CPH (26 IR 3367)					

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329 IAC 9-1-41	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-1-41.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-1-41.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-1-42.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-1-47	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-1-47.1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-5.1	A	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-6	A	01-161	26 IR 1226	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-2.1-1	A	01-161	26 IR 1215	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-5-7	A	01-161	26 IR 1227	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-1	A	01-161	26 IR 1229	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-2.5	N	01-161	26 IR 1230	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-3	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-4	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-6-5	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-7-1	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)
329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 9-7-2	A	01-161	26 IR 1236	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)

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329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 10-2-96	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3392)
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646) *CPH (26 IR 3073) *CPH (26 IR 3367)	329 IAC 10-2-97.1	A	00-185	26 IR 435	*CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3392)
329 IAC 10-1-4	A	00-185	26 IR 432	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-99	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-1-4.5	N	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-100	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-6	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-105.3	N	00-185	26 IR 436	*CPH (26 IR 3073) *CPH (26 IR 3366) *CPH (26 IR 3392)
329 IAC 10-2-11	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-106	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3366) *CPH (26 IR 3073)
329 IAC 10-2-29	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-109	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-29.5	N	01-288	26 IR 1653	*CPH (26 IR 2647)	329 IAC 10-2-111.5	N	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-32	A	01-288	26 IR 1653	*CPH (26 IR 2647)	329 IAC 10-2-112	A	00-185	26 IR 436	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-33	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-115	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-41	A	00-185	26 IR 433	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-116	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-41.1	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-117	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-53	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-121.1	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-60	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-127	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-63.5	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-128	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-64	A	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-130	A	01-288	26 IR 1655	*CPH (26 IR 2647)
329 IAC 10-2-66.1	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-132.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-66.2	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-132.3	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-66.3	N	00-185	26 IR 434	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-135.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-2-69	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-135.5	N	01-288	26 IR 1655	*CPH (26 IR 2647)
329 IAC 10-2-72.1	A	01-288	26 IR 1654	*CPH (26 IR 2647)	329 IAC 10-2-142.5	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-74	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-147.2	N	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-75	A	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-149	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-75.1	N	00-185	26 IR 435	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-158	A	00-185	26 IR 437	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-76	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-2-165.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
					329 IAC 10-2-172.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
					329 IAC 10-2-174	A	01-288	26 IR 1655	*CPH (26 IR 2647)
					329 IAC 10-2-177	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
					329 IAC 10-2-179	R	01-288	26 IR 1674	*CPH (26 IR 2647)

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329 IAC 10-2-181.2	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-14-1	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-181.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-14-2	A	01-288	26 IR 1661	*CPH (26 IR 2647)
329 IAC 10-2-181.6	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-15-1	A	00-185	26 IR 447	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-187.5	N	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-15-2	A	00-185	26 IR 448	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-197.1	A	01-288	26 IR 1656	*CPH (26 IR 2647)	329 IAC 10-15-5	A	00-185	26 IR 449	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-199.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 10-15-8	A	00-185	26 IR 450	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-201.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 10-15-12	N	00-185	26 IR 451	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-203	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-16-1	A	00-185	26 IR 452	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-2-205	R	00-185	26 IR 511	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-16-8	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-3-1	A	00-185	26 IR 438	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-16-12				*ERR (26 IR 3046)
329 IAC 10-3-2	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-17-2	A	00-185	26 IR 453	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-3-3	A	00-185	26 IR 439	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-17-7	A	00-185	26 IR 454	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-5-1	A	01-288	26 IR 1656	*CPH (26 IR 2647)	329 IAC 10-17-9	A	00-185	26 IR 456	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-6-4	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-17-12	A	00-185	26 IR 457	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-7.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 10-17-18	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-7.2	N	01-288	26 IR 1656	*CPH (26 IR 2647)	329 IAC 10-19-1	A	00-185	26 IR 458	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-8.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 10-20-3	A	00-185	26 IR 459	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-8.2	N	01-288	26 IR 1657	*CPH (26 IR 2647)	329 IAC 10-20-8	A	00-185	26 IR 460	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-9-2	A	01-288	26 IR 1659	*CPH (26 IR 2647)	329 IAC 10-20-11	A	00-185	26 IR 461	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-9-4	A	01-288	26 IR 1659	*CPH (26 IR 2647)	329 IAC 10-20-12	A	00-185	26 IR 462	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-10-1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-20-13	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-10-2	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-20-14.1	A	01-288	26 IR 1662	*CPH (26 IR 2647)
329 IAC 10-11-2.1	A	00-185	26 IR 440	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-20-20	A	00-185	26 IR 463	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-11-2.5	A	00-185	26 IR 441	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-20-24	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-11-5.1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-20-26	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-11-6	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)					
329 IAC 10-12-1	A	00-185	26 IR 443	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)					
329 IAC 10-13-1	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)					
329 IAC 10-13-5	A	00-185	26 IR 445	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)					
329 IAC 10-13-6	A	00-185	26 IR 446	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)					

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329 IAC 10-20-28	A	00-185	26 IR 464	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-29-1	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-20-29	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 10-30-4	A	00-185	26 IR 500	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-1	A	00-185	26 IR 465	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-36-19	A	01-288	26 IR 1665	*CPH (26 IR 2647)
329 IAC 10-21-2	A	00-185	26 IR 468	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-37-4	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-4	A	00-185	26 IR 474	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-1	A	00-185	26 IR 501	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-6	A	00-185	26 IR 477	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-2	A	00-185	26 IR 502	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-7	A	00-185	26 IR 479	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-3	A	00-185	26 IR 508	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-8	A	00-185	26 IR 480	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-7	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-9	A	00-185	26 IR 481	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-9	A	00-185	26 IR 509	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-10	A	00-185	26 IR 482	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 10-39-10	A	00-185	26 IR 510	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)
329 IAC 10-21-13	A	00-185	26 IR 484	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-2-19.5	N	01-288	26 IR 1665	*CPH (26 IR 2647)
329 IAC 10-21-15	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-2-39	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 10-21-16	A	00-185	26 IR 488	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-2-44	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-22-2	A	00-185	26 IR 493	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-3-2	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 10-22-3	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-6-1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-22-5	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-7	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-22-6	A	00-185	26 IR 494	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-8-2	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 10-22-7	A	00-185	26 IR 495	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-8-2.5	N	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 10-22-8	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-8-3	A	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 10-23-2	A	00-185	26 IR 496	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-9-6	N	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 10-23-3	A	00-185	26 IR 497	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-13-4	A	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 10-23-4	A	00-185	26 IR 498	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-13-6	A	01-288	26 IR 1668	*CPH (26 IR 2647)
329 IAC 10-24-4	A	00-185	26 IR 499	*CPH (26 IR 2392) *CPH (26 IR 3073) *CPH (26 IR 3366)	329 IAC 11-15-1	A	01-288	26 IR 1668	*CPH (26 IR 2647)
329 IAC 10-28-21	R	01-288	26 IR 1674	*CPH (26 IR 2647)	329 IAC 11-19-2	A	01-288	26 IR 1669	*CPH (26 IR 2647)
329 IAC 10-28-24	A	01-288	26 IR 1664	*CPH (26 IR 2647)	329 IAC 11-19-3	A	01-288	26 IR 1670	*CPH (26 IR 2647)
					329 IAC 11-20-1	A	01-288	26 IR 1670	*CPH (26 IR 2647)
					329 IAC 11-21-4	A	01-288	26 IR 1671	*CPH (26 IR 2647)
					329 IAC 11-21-5	A	01-288	26 IR 1671	*CPH (26 IR 2647)
					329 IAC 11-21-6	A	01-288	26 IR 1671	*CPH (26 IR 2647)
					329 IAC 11-21-7	A	01-288	26 IR 1671	*CPH (26 IR 2647)
					329 IAC 11-21-8	A	01-288	26 IR 1672	*CPH (26 IR 2647)
					329 IAC 12-8-4	A	01-288	26 IR 1672	*CPH (26 IR 2647)
					329 IAC 13-3-1	A	01-288	26 IR 1673	*CPH (26 IR 2647)
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					345 IAC 1-3-3	A	02-107	25 IR 4170	<b>26 IR 1523</b>
					345 IAC 1-3-4	A	02-107	25 IR 4171	<b>26 IR 1524</b>
					345 IAC 1-3-8	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 1-3-11	A	02-107	25 IR 4171	<b>26 IR 1524</b>
					345 IAC 1-3-12	A	02-107	25 IR 4172	<b>26 IR 1525</b>
					345 IAC 1-3-13	A	02-107	25 IR 4172	<b>26 IR 1525</b>
					345 IAC 1-3-14	A	02-107	25 IR 4173	<b>26 IR 1526</b>
					345 IAC 1-3-15	A	02-107	25 IR 4173	<b>26 IR 1527</b>
					345 IAC 1-3-16	R	02-107	25 IR 4182	<b>26 IR 1535</b>
					345 IAC 1-3-16.5	N	02-107	25 IR 4174	<b>26 IR 1527</b>
					345 IAC 1-3-22	A	03-9	26 IR 3108	
					345 IAC 1-3-30	A	01-413	25 IR 2774	<b>26 IR 345</b>
						A	02-323	26 IR 3102	
					345 IAC 1-3-31	N	02-323	26 IR 3104	
					345 IAC 1-3-32	N	02-323	26 IR 3104	
					345 IAC 1-5-1	A	03-9	26 IR 3108	





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405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>	405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61) *ARR (26 IR 384) *NRA (26 IR 809) *ARR (26 IR 1573) *NRA (26 IR 1960) <b>26 IR 2863</b>	405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-10	R	02-277	26 IR 866	<b>26 IR 2865</b>	405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-11	A	02-277	26 IR 865	<b>26 IR 2864</b>	405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>
405 IAC 5-14-15	A	02-277	26 IR 865	<b>26 IR 2864</b>	405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-14-16	A	02-277	26 IR 866	<b>26 IR 2864</b>	405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-14-17	A	02-277	26 IR 866	<b>26 IR 2864</b>	405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-14-18	A	02-277	26 IR 866	<b>26 IR 2864</b>	405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-19-1	A	01-301	25 IR 3811	*NRA (26 IR 809) <b>26 IR 1901</b>	405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-19-3	A	02-207	26 IR 514	*NRA (2644)	405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 699</b>
405 IAC 5-21-1	A	03-66	26 IR 3381		405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-21-7	A	03-66	26 IR 3382		405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-21-8	N	03-66	26 IR 3382		405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 700</b>
405 IAC 5-24-4				*ERR (26 IR 35)	405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62) <b>26 IR 732</b>	405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-24-13	N	02-207	26 IR 515	*NRA (2644)	405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-31-4	A	02-207	26 IR 515	*NRA (2644)	405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-1	A	02-214	26 IR 159	*NRA (2644) *AROC (26 IR 2695)	405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 701</b>
405 IAC 5-34-2	A	02-214	26 IR 159	*NRA (2644) *AROC (26 IR 2695)	405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>
405 IAC 5-34-3	A	02-214	26 IR 160	*NRA (2644) *AROC (26 IR 2695)	405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>
405 IAC 5-34-4	A	02-214	26 IR 160	*NRA (2644) *AROC (26 IR 2695)	405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 702</b>
405 IAC 5-34-4.1	N	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695)	405 IAC 7	N	02-234	26 IR 518	*NRA (26 IR 1960) <b>26 IR 2869</b>
405 IAC 5-34-4.2	N	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695)	TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM 407 IAC 2-3-1				*ERR (26 IR 383)
405 IAC 5-34-5	A	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695)					
405 IAC 5-34-6	A	02-214	26 IR 162	*NRA (2644) *AROC (26 IR 2695)					
405 IAC 5-34-7	A	02-214	26 IR 163	*NRA (2644) *AROC (26 IR 2695)					
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 697</b>					
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>					
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>					
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) <b>26 IR 698</b>					

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### TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 1-2.3-47	A	03-4	26 IR 3131	
410 IAC 1-2.3-48	A	03-4	26 IR 3134	
410 IAC 1-2.3-97.5	N	03-4	26 IR 3135	
410 IAC 3-3-7.1	A	03-19	26 IR 3385	
410 IAC 6-2	R	02-142	25 IR 4197	*CPH (26 IR 812)
				*AROC (26 IR 3149)
				<b>26 IR 3334</b>
410 IAC 6-2.1	N	02-142	25 IR 4188	*CPH (26 IR 812)
				*AROC (26 IR 3149)
				<b>26 IR 3325</b>
410 IAC 6-7.1				*ERR (26 IR 36)
410 IAC 6-7.2				*ERR (26 IR 36)
410 IAC 6-7.2-17	A	02-295	26 IR 2662	
410 IAC 6-7.2-29	A	02-295	26 IR 2662	
410 IAC 6-7.2-30	A	02-295	26 IR 2663	
410 IAC 6-8.1	R	02-321	26 IR 3131	*CPH (26 IR 3368)
410 IAC 6-8.2	N	02-321	26 IR 3116	*CPH (26 IR 3368)
410 IAC 6-10	R	02-321	26 IR 3131	*CPH (26 IR 3368)
410 IAC 7-19	R	02-317	26 IR 3385	
410 IAC 7-22	N	02-266	26 IR 1245	<b>26 IR 3334</b>
410 IAC 7-23	N	02-317	26 IR 3383	
410 IAC 15-1.5-4	A	02-43	26 IR 164	<b>26 IR 1550</b>
410 IAC 15-1.5-5	A	02-43	26 IR 166	<b>26 IR 1551</b>
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-1	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-2	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-3	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-5	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-6	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-7	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-8	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-9	R	02-89	25 IR 3276	<b>26 IR 1936</b>
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-11	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-14	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-16	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-17	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-18	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-19	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-20	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-21	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-22	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-23	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-24	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-25	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-26	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-27	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-28	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-29	R	02-89	25 IR 3277	<b>26 IR 1936</b>

410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-30	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-31	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-32	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-33	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-34	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-35	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-36	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-37	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-38	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-39	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-42	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-44	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-45	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-46	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-47	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1-48	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-1.1	N	02-89	25 IR 3244	<b>26 IR 1902</b>
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	<b>26 IR 1911</b>
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	<b>26 IR 1912</b>
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	<b>26 IR 1914</b>
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	<b>26 IR 1919</b>
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	<b>26 IR 1921</b>
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	<b>26 IR 1923</b>
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	<b>26 IR 1925</b>
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-2	A	02-89	25 IR 3269	<b>26 IR 1929</b>
410 IAC 16.2-5-3	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-4	A	02-89	25 IR 3270	<b>26 IR 1929</b>
410 IAC 16.2-5-5	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	<b>26 IR 1931</b>
410 IAC 16.2-5-6	A	02-89	25 IR 3272	<b>26 IR 1932</b>
410 IAC 16.2-5-7	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	<b>26 IR 1933</b>
410 IAC 16.2-5-8	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	<b>26 IR 1934</b>
410 IAC 16.2-5-9	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-10	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-11	R	02-89	25 IR 3277	<b>26 IR 1936</b>
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	<b>26 IR 1935</b>
410 IAC 16.2-5-12	N	02-89	25 IR 3276	<b>26 IR 1935</b>

### TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2				*ERR (26 IR 36)
				*ERR (26 IR 1572)
412 IAC 2-1-1	A	02-41	25 IR 4198	<b>26 IR 1937</b>
412 IAC 2-1-2.1	N	02-41	25 IR 4198	<b>26 IR 1937</b>
				*ERR (26 IR 2375)
412 IAC 2-1-2.2	N	02-41	25 IR 4198	<b>26 IR 1937</b>
				*ERR (26 IR 2375)
412 IAC 2-1-6	A	02-41	25 IR 4199	<b>26 IR 1937</b>
412 IAC 2-1-8	A	02-41	25 IR 4199	<b>26 IR 1938</b>
412 IAC 2-1-10	N	02-41	25 IR 4199	<b>26 IR 1938</b>
412 IAC 2-1-11	N	02-41	25 IR 4200	<b>26 IR 1939</b>
412 IAC 2-1-12	N	02-41	25 IR 4200	<b>26 IR 1939</b>
412 IAC 2-1-13	N	02-41	25 IR 4200	<b>26 IR 1939</b>
412 IAC 2-1-14	N	02-41	25 IR 4200	<b>26 IR 1939</b>

### TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1-1-2				*ERR (26 IR 36)
431 IAC 7	N	02-211	26 IR 2108	

### TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
				<b>26 IR 745</b>

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440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62) <b>26 IR 733</b>	460 IAC 6-3-31	A	02-326	26 IR 2666	
440 IAC 4-3-1	A	02-218	26 IR 519	*NRA (26 IR 2390) <b>26 IR 2616</b>	460 IAC 6-3-32	A	02-326	26 IR 2666	
440 IAC 4.1-2-1	A	02-218	26 IR 519	*NRA (26 IR 2390) <b>26 IR 2616</b>	460 IAC 6-3-38.5	N	02-326	26 IR 2666	
440 IAC 4.1-2-4	A	02-218	26 IR 520	*NRA (26 IR 2390) <b>26 IR 2617</b>	460 IAC 6-3-38.6	N	02-326	26 IR 2667	
440 IAC 4.1-2-5	A	02-218	26 IR 521	*NRA (26 IR 2390) <b>26 IR 2618</b>	460 IAC 6-3-41.1	N	02-326	26 IR 2667	
440 IAC 4.1-2-9	A	02-218	26 IR 521	*NRA (26 IR 2390) <b>26 IR 2618</b>	460 IAC 6-3-52.1	N	02-326	26 IR 2667	
440 IAC 4.1-3	N	02-218	26 IR 522	*NRA (26 IR 2390) <b>26 IR 2619</b>	460 IAC 6-3-56	A	02-326	26 IR 2667	
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62) <b>26 IR 745</b>	460 IAC 6-4-1	A	02-326	26 IR 2667	
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62) <b>26 IR 746</b>	460 IAC 6-5-4	A	02-326	26 IR 2668	
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62) <b>26 IR 747</b>	460 IAC 6-5-7	A	02-326	26 IR 2669	
440 IAC 5.2	N	03-57	26 IR 3386		460 IAC 6-5-21	A	02-326	26 IR 2669	
440 IAC 6-2-2				*ERR (26 IR 1572)	460 IAC 6-5-32	N	02-326	26 IR 2669	
440 IAC 9-2-10	N	02-106	25 IR 4201	*NRA (26 IR 1112) <b>26 IR 1940</b>	460 IAC 6-5-33	N	02-326	26 IR 2670	
440 IAC 9-2-11	N	02-106	25 IR 4202	*NRA (26 IR 1112) <b>26 IR 1941</b>	460 IAC 6-5-34	N	02-326	26 IR 2670	
440 IAC 9-2-12	N	02-106	25 IR 4203	*NRA (26 IR 1112) <b>26 IR 1942</b>	460 IAC 6-5-35	N	02-326	26 IR 2670	
440 IAC 9-2-13	N	02-265	26 IR 867	<b>26 IR 3337</b>	460 IAC 6-5-36	N	02-326	26 IR 2670	
TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES					460 IAC 6-6-2	A	02-326	26 IR 2670	
460 IAC 1-3-1	R	02-319	26 IR 2112		460 IAC 6-6-3	A	02-326	26 IR 2670	
460 IAC 1-3-2	R	02-319	26 IR 2112		460 IAC 6-7-2	A	02-326	26 IR 2671	
460 IAC 1-3-3	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-7-3	A	02-326	26 IR 2671	
	R	02-319	26 IR 2112		460 IAC 6-9-5	A	02-326	26 IR 2672	
460 IAC 1-3-4	R	02-319	26 IR 2112		460 IAC 6-9-7	N	02-326	26 IR 2673	
460 IAC 1-3-5	R	02-319	26 IR 2112		460 IAC 6-10-5	A	02-326	26 IR 2673	
460 IAC 1-3-6	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-10-8	A	02-326	26 IR 2674	
	R	02-319	26 IR 2112		460 IAC 6-10-13	A	02-326	26 IR 2674	
460 IAC 1-3-7	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-13-2	A	02-326	26 IR 2675	
	R	02-319	26 IR 2112		460 IAC 6-14-4	A	02-326	26 IR 2675	
460 IAC 1-3-8	R	02-319	26 IR 2112		460 IAC 6-17-3	A	02-326	26 IR 2675	
460 IAC 1-3-9	R	02-319	26 IR 2112		460 IAC 6-17-4	A	02-326	26 IR 2676	
460 IAC 1-3-10	R	02-319	26 IR 2112		460 IAC 6-19-6	A	02-326	26 IR 2676	
460 IAC 1-3-12	RA	02-262	26 IR 544	<b>26 IR 1261</b>	460 IAC 6-24-1	A	02-236	26 IR 2677	
	R	02-319	26 IR 2112		460 IAC 6-24-2	A	02-326	26 IR 2677	
460 IAC 1-3-13	R	02-319	26 IR 2112		460 IAC 6-25-10	A	02-326	26 IR 2677	
460 IAC 1-3-14	R	02-319	26 IR 2112		460 IAC 6-29-4	A	02-326	26 IR 2678	
460 IAC 1-3-15	R	02-319	26 IR 2112		460 IAC 6-29-9	N	02-326	26 IR 2678	
460 IAC 1-3.3	N	02-319	26 IR 2111		460 IAC 6-35	N	02-326	26 IR 2678	
460 IAC 1-8	N	01-337	25 IR 2557	<b>26 IR 350</b>	460 IAC 7	N	02-210	26 IR 525	*ARR (26 IR 1110)
460 IAC 2-3-1	A	02-9	25 IR 2286	<b>26 IR 747</b>				26 IR 1247	*AROC (26 IR 2472)
460 IAC 2-3-2	A	02-9	25 IR 2286	<b>26 IR 747</b>	460 IAC 8	N	03-99	26 IR 3392	<b>26 IR 2870</b>
460 IAC 2-3-3	A	02-9	25 IR 2287	<b>26 IR 748</b>	TITLE 470 DIVISION OF FAMILY AND CHILDREN				
460 IAC 3.5	RA	02-237	26 IR 2694		470 IAC 3-4.1	R	02-298	26 IR 1719	*NRA (26 IR 3365)
460 IAC 5-1-13	A	02-151	26 IR 524	<b>26 IR 749</b>	470 IAC 3-4.2	R	02-298	26 IR 1719	*NRA (26 IR 3365)
460 IAC 6	N	02-46	25 IR 3832	*AROC (26 IR 883)	470 IAC 3-4.7	N	02-298	26 IR 1675	*NRA (26 IR 3365)
					470 IAC 3.1-12-2	A	02-74	26 IR 167	*NRA (26 IR 1112)
460 IAC 6-3-2.1	N	02-326	26 IR 2664						*AROC (26 IR 1264)
460 IAC 6-3-5.1	N	02-326	26 IR 2665		470 IAC 3.1-12-7	N	02-74	26 IR 168	<b>26 IR 2320</b>
460 IAC 6-3-5.2	N	02-326	26 IR 2665						*NRA (26 IR 1112)
460 IAC 6-3-6.1	N	02-326	26 IR 2665		470 IAC 8.1-2-12	A	02-152	26 IR 530	*AROC (26 IR 1264)
460 IAC 6-3-10.1	N	02-326	26 IR 2665		470 IAC 10.1-3-4	R	03-33	26 IR 2682	<b>26 IR 2320</b>
460 IAC 6-3-15.1	N	02-326	26 IR 2665		470 IAC 10.1-3-4.1	R	03-33	26 IR 2682	
460 IAC 6-3-15.2	N	02-326	26 IR 2665		470 IAC 10.1-3-5	R	03-33	26 IR 2682	
460 IAC 6-3-18	A	02-326	26 IR 2666		470 IAC 10.2	N	03-33	26 IR 2680	
460 IAC 6-3-25	A	02-326	26 IR 2666		470 IAC 11.1-1-5	A	02-203	26 IR 169	*NRA (26 IR 1112)
460 IAC 6-3-29.5	N	02-326	26 IR 2666		TITLE 511 INDIANA STATE BOARD OF EDUCATION				
					511 IAC 1-6-2	RA	03-56	26 IR 3147	
					511 IAC 1-6-3	RA	03-56	26 IR 3147	
					511 IAC 1-6-4	RA	03-56	26 IR 3147	
					511 IAC 4-4-3	RA	03-56	26 IR 3147	
					511 IAC 4-4-4	RA	03-56	26 IR 3147	
					511 IAC 5-1-1	RA	03-56	26 IR 3147	
					511 IAC 5-1-2	A	02-67	25 IR 2807	<b>26 IR 786</b>
					511 IAC 5-1-3	RA	03-56	26 IR 3147	
					511 IAC 5-1-3.5	A	02-67	25 IR 2807	<b>26 IR 787</b>

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511 IAC 5-1-4	RA	03-56	26 IR 3147		610 IAC 4-2-11	R	03-36	26 IR 2464	
511 IAC 5-1-4.5	RA	03-56	26 IR 3147		610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770)
511 IAC 5-1-5	A	02-67	25 IR 2807	<b>26 IR 787</b>					<b>26 IR 370</b>
511 IAC 5-1-6	A	02-67	25 IR 2807	<b>26 IR 787</b>					*AROC (26 IR 547)
511 IAC 5-2-3	A	02-170	25 IR 4204		610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770)
511 IAC 5-2-4	A	02-170	25 IR 4205						<b>26 IR 353</b>
511 IAC 5-3-1	RA	03-56	26 IR 3147						*AROC (26 IR 547)
511 IAC 5-3-2	RA	03-56	26 IR 3147		610 IAC 4-6-11	A	03-37	26 IR 2464	
511 IAC 6-7-2	RA	03-56	26 IR 3147		<b>TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION</b>				
511 IAC 6-7-4	RA	03-56	26 IR 3147		655 IAC 1-1				*ERR (26 IR 383)
511 IAC 6-7-6.5	A	02-177	25 IR 4205		655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416)
511 IAC 6-7-7	RA	03-56	26 IR 3147						<b>26 IR 1262</b>
511 IAC 6-8-1	RA	03-56	26 IR 3147		<b>TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b>				
511 IAC 6-8-2	RA	03-56	26 IR 3147		675 IAC 12-3-13	N	02-90	25 IR 2573	<b>26 IR 1556</b>
511 IAC 6-8-3	RA	03-56	26 IR 3147		675 IAC 12-3-14	N	02-90	25 IR 2574	<b>26 IR 1557</b>
511 IAC 6-8-5	RA	03-56	26 IR 3147		675 IAC 12-3-15	N	02-90		†† <b>26 IR 1558</b>
511 IAC 6-8-6	RA	03-56	26 IR 3147		675 IAC 13-1-4	RA	03-48	26 IR 2693	
511 IAC 6.1-1-11.5				*ERR (26 IR 36)	675 IAC 13-1-5	RA	03-48	26 IR 2693	
511 IAC 6.1-5-3.5	RA	03-56	26 IR 3147		675 IAC 13-1-8	A	02-51	25 IR 2561	<b>26 IR 1095</b>
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206		675 IAC 13-1-9.5	RA	03-48	26 IR 2693	
	A	02-178	25 IR 4207		675 IAC 13-1-9.6	RA	03-48	26 IR 2693	
511 IAC 6.1-5.1-8	A	02-274	26 IR 1252		675 IAC 13-1-10	A	02-51	25 IR 2564	<b>26 IR 1098</b>
511 IAC 6.2-6-4	A	02-264	26 IR 1719		675 IAC 13-1-28	RA	03-48	26 IR 2693	
511 IAC 6.2-6-6.1	N	02-264	26 IR 1720		675 IAC 13-2.3	R	02-115	25 IR 3366	*ARR (26 IR 2376)
511 IAC 6.2-6-8	A	02-264	26 IR 1720						<b>26 IR 2951</b>
511 IAC 6.2-6-12	A	02-264	26 IR 1720		675 IAC 13-2.4	N	02-115	25 IR 3291	*ARR (26 IR 2376)
511 IAC 6.2-7	N	02-264	26 IR 1720						<b>26 IR 2975</b>
<b>TITLE 515 PROFESSIONAL STANDARDS BOARD</b>					675 IAC 14-4.2-181.1	N	01-376		†† <b>26 IR 11</b>
515 IAC 1-3	R	02-314	26 IR 1257	*ARR (26 IR 3346)	675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	<b>26 IR 11</b>
515 IAC 1-4-1	A	02-75	25 IR 4207	<b>26 IR 2322</b>	675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	<b>26 IR 11</b>
515 IAC 1-4-2	A	02-75	25 IR 4208	<b>26 IR 2323</b>	675 IAC 14-4.2-187	A	01-376	25 IR 1248	<b>26 IR 11</b>
515 IAC 1-6				*ERR (26 IR 36)	675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	<b>26 IR 12</b>
515 IAC 1-7	N	02-314	26 IR 1254	*ARR (26 IR 3346)	675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	<b>26 IR 12</b>
515 IAC 3				*ERR (26 IR 37)	675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	<b>26 IR 12</b>
515 IAC 4	N	02-8	25 IR 2292	*ARR (25 IR 3183)	675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	<b>26 IR 12</b>
				*ARR (25 IR 3770)	675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	<b>26 IR 12</b>
515 IAC 5	N	02-80	25 IR 2808	<b>26 IR 2325</b>	675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	<b>26 IR 12</b>
515 IAC 8	N	03-10	26 IR 2437		675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	<b>26 IR 12</b>
515 IAC 9	N	03-11	26 IR 2451	*CPH (26 IR 2648)	675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	<b>26 IR 12</b>
<b>TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY</b>					675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	<b>26 IR 13</b>
540 IAC 1-7-2	A	02-287	26 IR 1257	*CPH (26 IR 1593)	675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	<b>26 IR 13</b>
				<b>26 IR 3338</b>	675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	<b>26 IR 13</b>
540 IAC 1-8-2	A	02-287	26 IR 1258	*CPH (26 IR 1593)	675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	<b>26 IR 13</b>
				<b>26 IR 3338</b>	675 IAC 14-4.2-191.4	N	01-376		†† <b>26 IR 13</b>
540 IAC 1-9-2.6	R	02-287	26 IR 1258	*CPH (26 IR 1593)	675 IAC 14-4.2-191.5	N	01-376		†† <b>26 IR 13</b>
				<b>26 IR 3338</b>	675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	<b>26 IR 13</b>
540 IAC 1-10-1	A	02-287	26 IR 1258	*CPH (26 IR 1593)	675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	<b>26 IR 13</b>
				<b>26 IR 3338</b>	675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	<b>26 IR 14</b>
<b>TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND</b>					675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	<b>26 IR 14</b>
550 IAC 3-1-1	A	02-325	26 IR 2112		675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	<b>26 IR 14</b>
550 IAC 3-1-2	A	02-325	26 IR 2113		675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	<b>26 IR 14</b>
550 IAC 3-1-3	A	02-325	26 IR 2113		675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	<b>26 IR 14</b>
550 IAC 3-2-1	A	02-325	26 IR 2113		675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	<b>26 IR 14</b>
550 IAC 3-2-2	A	02-325	26 IR 2114		675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	<b>26 IR 14</b>
550 IAC 5	N	02-325	26 IR 2114		675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	<b>26 IR 14</b>
550 IAC 6	N	02-325	26 IR 2115		675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	<b>26 IR 14</b>
<b>TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION</b>					675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	<b>26 IR 15</b>
570 IAC 1-14	N	02-233	26 IR 867	<b>26 IR 3338</b>	675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	<b>26 IR 15</b>
<b>TITLE 575 STATE SCHOOL BUS COMMITTEE</b>					675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	<b>26 IR 15</b>
575 IAC 1-1-4.6	N	02-315	26 IR 1723	<b>26 IR 3341</b>	675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	<b>26 IR 15</b>
<b>TITLE 610 DEPARTMENT OF LABOR</b>					675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	<b>26 IR 15</b>
610 IAC 4-2-1	A	03-36	26 IR 2463		675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	<b>26 IR 15</b>
					675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	<b>26 IR 15</b>
					675 IAC 17-1.5	R	01-376	25 IR 1255	<b>26 IR 19</b>
					675 IAC 17-1.6	N	01-376	25 IR 1252	<b>26 IR 15</b>

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675 IAC 18-1.3	R	02-116	25 IR 3381	*ARR (26 IR 2376) <b>26 IR 2967</b>	760 IAC 1-14	R	01-399	25 IR 2582	*AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 26</b>
675 IAC 18-1.4	N	02-116	25 IR 3366	*ARR (26 IR 2376) <b>26 IR 2952</b>	760 IAC 1-21-2	A	02-299	26 IR 1724	*AROC (26 IR 3427)
675 IAC 20-2-17	A	02-52	25 IR 2566	<b>26 IR 1100</b>	760 IAC 1-21-5	A	02-299	26 IR 1724	*AROC (26 IR 3427)
675 IAC 20-2-20	A	02-52	25 IR 2566	<b>26 IR 1101</b>	760 IAC 1-21-8	A	02-299	26 IR 1724	*AROC (26 IR 3427)
675 IAC 20-2-24	A	02-52	25 IR 2567	<b>26 IR 1102</b>	760 IAC 1-57-1	A	03-7	26 IR 3398	
675 IAC 20-2-26	A	02-52	25 IR 2567	<b>26 IR 1102</b>	760 IAC 1-57-2	A	03-7	26 IR 3398	
675 IAC 20-3-5	A	02-52	25 IR 2568	<b>26 IR 1102</b>	760 IAC 1-57-3	A	03-7	26 IR 3398	
675 IAC 20-3-6	A	02-52	25 IR 2568	<b>26 IR 1103</b>	760 IAC 1-57-4	A	03-7	26 IR 3399	
675 IAC 20-3-7	A	02-52	25 IR 2569	<b>26 IR 1103</b>	760 IAC 1-57-5	A	03-7	26 IR 3399	
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38) <b>26 IR 1083</b>	760 IAC 1-57-6	A	03-7	26 IR 3400	
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38) <b>26 IR 1084</b>	760 IAC 1-57-7	R	03-7	26 IR 3408	
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-8	A	03-7	26 IR 3401	
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-9	A	03-7	26 IR 3405	
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-57-10	A	03-7	26 IR 3407	
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38) <b>26 IR 1085</b>	760 IAC 1-59-1	A	02-124	26 IR 170	<b>26 IR 2326</b>
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-59-2	A	02-124	26 IR 170	<b>26 IR 2326</b>
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-59-3	A	02-124	26 IR 171	<b>26 IR 2327</b>
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38) <b>26 IR 1085</b>	760 IAC 1-59-4	A	02-124	26 IR 171	<b>26 IR 2327</b>
675 IAC 21-1-8	R	01-430		†† <b>26 IR 1095</b>	760 IAC 1-59-5	A	02-124	26 IR 171	<b>26 IR 2327</b>
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38) <b>26 IR 1086</b>	760 IAC 1-59-6	A	02-124	26 IR 172	<b>26 IR 2328</b>
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1086</b>	760 IAC 1-59-7	A	02-124	26 IR 172	<b>26 IR 2329</b>
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-59-8	A	02-124	26 IR 173	<b>26 IR 2329</b>
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1087</b>	760 IAC 1-59-9	A	02-124	26 IR 174	<b>26 IR 2330</b>
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38) <b>26 IR 1087</b>	760 IAC 1-59-10	A	02-124	26 IR 174	<b>26 IR 2330</b>
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38) <b>26 IR 1090</b>	760 IAC 1-59-11	A	02-124	26 IR 174	<b>26 IR 2330</b>
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38) <b>26 IR 1090</b>	760 IAC 1-59-12	A	02-124	26 IR 175	<b>26 IR 2331</b>
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38) <b>26 IR 1092</b>	760 IAC 1-59-13	R	02-124	26 IR 177	<b>26 IR 2333</b>
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38) <b>26 IR 1092</b>	760 IAC 1-59-14	A	02-124	26 IR 175	<b>26 IR 2331</b>
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	760 IAC 1-68	N	02-137	26 IR 531	*AROC (26 IR 883) <b>26 IR 3035</b>
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38) <b>26 IR 1095</b>	TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION				
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38) <b>26 IR 1093</b>	762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114) <b>26 IR 27</b>
675 IAC 22-2.2	R	02-117	25 IR 3442	*ARR (26 IR 2376) <b>26 IR 3031</b>	TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS				
675 IAC 22-2.2-14	A	02-53	25 IR 2569	*ARR (26 IR 2376) <b>26 IR 1553</b>	804 IAC 1.1-1-1	A	03-20	26 IR 3136	
675 IAC 22-2.3	N	02-117	25 IR 3382	*ARR (26 IR 2376) <b>26 IR 2968</b>	804 IAC 1.1-3-1	A	02-20	25 IR 3446	<b>26 IR 370</b> *ERR (26 IR 793)
675 IAC 25	N	02-118	25 IR 3444	*ARR (26 IR 2376) <b>26 IR 3032</b>	804 IAC 1.1-3-2	RA	03-43	26 IR 3148	
TITLE 760 DEPARTMENT OF INSURANCE					TITLE 808 STATE BOXING COMMISSION				
760 IAC 1-5	R	01-399	25 IR 2582	*AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 26</b>	808 IAC 2-6-1	A	02-120	25 IR 4210	<b>26 IR 1104</b>
760 IAC 1-5.1	N	01-399	25 IR 2575	*AROC (26 IR 183) *ARR (26 IR 38) <b>26 IR 19</b> *ERR (26 IR 3345)	TITLE 816 BOARD OF BARBER EXAMINERS				
TITLE 760 DEPARTMENT OF INSURANCE					816 IAC 1-3-1	A	02-320	26 IR 1725	
TITLE 760 DEPARTMENT OF INSURANCE					TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS				
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 4-1-11	A	03-21	26 IR 3137	*AROC (26 IR 3426)
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 4-4-5				*ERR (26 IR 1109)
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 4-4-14				*ERR (26 IR 1109)
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 6-1-3	A	03-21	26 IR 3137	*AROC (26 IR 3426)
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 6-2-1				*ERR (26 IR 1109)
TITLE 760 DEPARTMENT OF INSURANCE					820 IAC 6-3	N	03-21	26 IR 3137	*AROC (26 IR 3426)
TITLE 760 DEPARTMENT OF INSURANCE					TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION				
TITLE 760 DEPARTMENT OF INSURANCE					825 IAC 1	RA	02-176	25 IR 4220	<b>26 IR 1262</b>
TITLE 760 DEPARTMENT OF INSURANCE					825 IAC 1-1-5	R	02-179	25 IR 4211	
TITLE 760 DEPARTMENT OF INSURANCE					825 IAC 1-5-1	R	02-179	25 IR 4211	
TITLE 760 DEPARTMENT OF INSURANCE					825 IAC 1-5-2	R	02-179	25 IR 4211	
TITLE 760 DEPARTMENT OF INSURANCE					TITLE 828 STATE BOARD OF DENTISTRY				
TITLE 760 DEPARTMENT OF INSURANCE					828 IAC 0.5-2-3	A	02-114	25 IR 3452	<b>26 IR 376</b>
TITLE 760 DEPARTMENT OF INSURANCE					828 IAC 0.5-2-4	A	02-114	25 IR 3453	<b>26 IR 376</b>

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828 IAC 0.5-2-6	N	02-112	25 IR 3447	<b>26 IR 371</b>	836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
828 IAC 1-1-3	A	03-73	26 IR 3408						<b>26 IR 2372</b>
828 IAC 1-1-6	A	03-73	26 IR 3409		836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807)
828 IAC 1-1-7	A	03-73	26 IR 3409						<b>26 IR 2357</b>
828 IAC 1-1-12	A	03-73	26 IR 3409		836 IAC 3	RA	01-40	24 IR 2580	
828 IAC 1-2-3	A	03-73	26 IR 3409		836 IAC 3-2-4	A	02-91	25 IR 2834	*CPH (25 IR 3807)
828 IAC 1-2-6	A	03-73	26 IR 3410						<b>26 IR 2358</b>
828 IAC 1-2-7	A	03-73	26 IR 3410		836 IAC 3-2-5	A	02-91	25 IR 2835	*CPH (25 IR 3807)
828 IAC 1-2-12	A	03-73	26 IR 3410						<b>26 IR 2360</b>
828 IAC 1-3-1	R	02-113	25 IR 3452	<b>26 IR 375</b>	836 IAC 3-2-8	R	02-91	25 IR 2848	*CPH (25 IR 3807)
828 IAC 1-3-1.1	N	02-113	25 IR 3450	<b>26 IR 373</b>					<b>26 IR 2372</b>
				*ERR (26 IR 383)	836 IAC 3-3-4	A	02-91	25 IR 2836	*CPH (25 IR 3807)
828 IAC 1-3-1.5	N	02-113	25 IR 3451	<b>26 IR 374</b>					<b>26 IR 2360</b>
828 IAC 1-3-2	A	02-113	25 IR 3452	<b>26 IR 375</b>	836 IAC 3-3-5	A	02-91	25 IR 2837	*CPH (25 IR 3807)
	A	02-270	26 IR 3411						<b>26 IR 2362</b>
828 IAC 1-3-3	A	02-113	25 IR 3452	<b>26 IR 375</b>	836 IAC 3-3-8	R	02-91	25 IR 2848	*CPH (25 IR 3807)
839 IAC 1-4-5	A	02-270	26 IR 3411						<b>26 IR 2372</b>
828 IAC 1-5-1	A	02-112	25 IR 3448	<b>26 IR 371</b>	836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
	A	02-270	26 IR 3412						<b>26 IR 2372</b>
828 IAC 1-5-1.5	N	02-112	25 IR 3448	<b>26 IR 371</b>	836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807)
	N	02-270	26 IR 3414						<b>26 IR 2362</b>
828 IAC 1-5-2	A	02-112	25 IR 3448	<b>26 IR 372</b>	836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807)
828 IAC 1-5-2.5	N	02-112	25 IR 3449	<b>26 IR 372</b>					<b>26 IR 2364</b>
828 IAC 1-6-1	A	02-112	25 IR 3449	<b>26 IR 373</b>	836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
828 IAC 1-7-1	A	02-114	25 IR 3453	<b>26 IR 376</b>					<b>26 IR 2365</b>
828 IAC 1-7-2	N	02-114	25 IR 3453	<b>26 IR 377</b>	836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
									<b>26 IR 2372</b>
TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE					836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
832 IAC 2-1-2	A	02-147	26 IR 870	<b>26 IR 2622</b>					<b>26 IR 2366</b>
TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION					836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807)
836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)					<b>26 IR 2366</b>
				<b>26 IR 2333</b>	836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)					<b>26 IR 2367</b>
				<b>26 IR 2335</b>	836 IAC 4-6-1	N	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)					<b>26 IR 2368</b>
				<b>26 IR 2336</b>	836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807)
836 IAC 1-2-1	A	02-91	25 IR 2813	*CPH (25 IR 3807)					<b>26 IR 2368</b>
				<b>26 IR 2337</b>	836 IAC 4-7-3.5	N	01-297	25 IR 499	<b>25 IR 2517</b>
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)	836 IAC 4-7.1	N	02-91	25 IR 2844	*CPH (25 IR 3807)
				<b>26 IR 2338</b>					<b>26 IR 2369</b>
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)	836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807)
				<b>26 IR 2339</b>					<b>26 IR 2372</b>
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)	836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
				<b>26 IR 2372</b>					<b>26 IR 2372</b>
836 IAC 1-3-5	A	02-91	25 IR 2818	*CPH (25 IR 3807)	TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD				
				<b>26 IR 2342</b>	839 IAC 1-2-2.1	A	02-271	26 IR 874	<b>26 IR 2622</b>
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)	839 IAC 1-2-5	A	02-271	26 IR 875	<b>26 IR 2623</b>
				<b>26 IR 2343</b>	839 IAC 1-3-2	A	02-270	26 IR 871	*ARR (26 IR 1945)
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)				26 IR 3411	
				<b>26 IR 2372</b>	839 IAC 1-4-5	A	02-270	26 IR 871	*ARR (26 IR 1945)
836 IAC 1-11-1	A	02-91	25 IR 2819	*CPH (25 IR 3807)				26 IR 3411	
				<b>26 IR 2343</b>	839 IAC 1-5-1	A	02-270	26 IR 872	*ARR (26 IR 1945)
836 IAC 1-11-2	A	02-91	25 IR 2820	*CPH (25 IR 3807)				26 IR 3412	
				<b>26 IR 2344</b>	839 IAC 1-5-1.5	N	02-270	26 IR 874	*ARR (26 IR 1945)
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807)				26 IR 3414	
				<b>26 IR 2345</b>	TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS				
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)	840 IAC 1-1-4	A	02-219	26 IR 540	<b>26 IR 1943</b>
				<b>26 IR 2372</b>	TITLE 844 MEDICAL LICENSING BOARD OF INDIANA				
836 IAC 2	RA	01-40	24 IR 2580		844 IAC 2.2-2-1	A	02-180	26 IR 177	<b>26 IR 1558</b>
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807)	844 IAC 2.2-2-2	A	02-180	26 IR 178	<b>26 IR 1559</b>
				<b>26 IR 2345</b>	844 IAC 2.2-2-5	A	02-180	26 IR 179	<b>26 IR 1560</b>
836 IAC 2-2-1	A	02-91	25 IR 2824	*CPH (25 IR 3807)	844 IAC 2.2-2-8	A	02-180	26 IR 179	<b>26 IR 1560</b>
				<b>26 IR 2348</b>	844 IAC 4-1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746)
836 IAC 2-7-1.1	A	02-91	25 IR 2826	*ERR (26 IR 2624)					<b>26 IR 34</b>
				*CPH (25 IR 3807)	844 IAC 4-4.1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746)
				<b>26 IR 2350</b>					<b>26 IR 34</b>
836 IAC 2-7-2	N	02-91	25 IR 2828	*CPH (25 IR 3807)					
				<b>26 IR 2353</b>					
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)					
				<b>26 IR 2372</b>					

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844 IAC 4-4.1-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	852 IAC 1-13-2	A	02-132	25 IR 3870	<b>26 IR 2374</b>
844 IAC 4-4.1-3.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	852 IAC 1-17	N	02-133	25 IR 3870	<b>26 IR 1561</b>
TITLE 856 INDIANA BOARD OF PHARMACY									
844 IAC 4-4.1-4.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	856 IAC 1-35-1	A	02-172	25 IR 4211	<b>26 IR 1561</b>
844 IAC 4-4.1-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	856 IAC 1-35-4	A	02-172	25 IR 4212	<b>26 IR 1562</b>
844 IAC 4-4.1-6	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	856 IAC 1-35-6	R	02-172	25 IR 4212	<b>26 IR 1562</b>
844 IAC 4-4.1-7	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	856 IAC 2-7	N	02-258	26 IR 1725	
TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE									
844 IAC 4-4.1-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	857 IAC 1-4-1	RA	02-78	25 IR 3883	<b>26 IR 546</b>
844 IAC 4-4.1-9	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	857 IAC 2-3-16	A	02-123	25 IR 3873	<b>26 IR 1104</b>
844 IAC 4-4.1-10	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	TITLE 862 PRIVATE DETECTIVES LICENSING BOARD				
844 IAC 4-4.1-11	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	862 IAC 1-1-6	A	02-302	26 IR 1728	<b>26 IR 3341</b>
844 IAC 4-4.5	N	02-12	25 IR 2302	*CPH (25 IR 2746) <b>26 IR 28</b>	TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS				
844 IAC 4-5-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	864 IAC 1.1-2-2	A	01-405	25 IR 2848	<b>26 IR 379</b>
844 IAC 4-6-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	864 IAC 1.1-2-4	A	01-405	25 IR 2849	<b>26 IR 380</b>
844 IAC 4-6-2.1	N	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	864 IAC 1.1-12-1	A	01-405	25 IR 2850	<b>26 IR 380</b>
844 IAC 4-6-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS				
844 IAC 4-6-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	865 IAC 1-4-8	A	02-56	25 IR 3456	<b>26 IR 1105</b>
844 IAC 4-7-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) <b>26 IR 34</b>	865 IAC 1-12-28	A	02-56	25 IR 3456	<b>26 IR 1105</b>
844 IAC 5-1-1	A	02-268	26 IR 2117		TITLE 872 INDIANA BOARD OF ACCOUNTANCY				
844 IAC 5-1-3	A	02-268	26 IR 2118		872 IAC 1-1-6.1	A	02-213	26 IR 2465	*AROC (26 IR 3150)
844 IAC 5-3	N	02-268	26 IR 2118		872 IAC 1-1-10	A	02-301	26 IR 2126	
844 IAC 5-4	N	02-268	26 IR 2120		872 IAC 1-1-12	A	02-213	26 IR 2466	*AROC (26 IR 3150)
844 IAC 6-1-4	A	01-431	25 IR 3454	<b>26 IR 377</b>	872 IAC 1-3-14	A	02-213	26 IR 2466	*AROC (26 IR 3150)
844 IAC 6-3-5	A	01-432	25 IR 3455	<b>26 IR 378</b>	872 IAC 1-4	N	02-301	26 IR 2127	
844 IAC 6-4-1	A	02-181	26 IR 541	<b>26 IR 2373</b>	872 IAC 1-5	N	02-213	26 IR 2467	*AROC (26 IR 3150)
TITLE 876 INDIANA REAL ESTATE COMMISSION									
TITLE 845 BOARD OF PODIATRIC MEDICINE									
845 IAC 1-3-1	A	03-46	26 IR 2683		876 IAC 1-1-23	A	01-427	25 IR 3874	<b>26 IR 789</b>
845 IAC 1-3-2	A	03-46	26 IR 2683		876 IAC 1-1-30.1	N	02-244	26 IR 2127	<b>26 IR 3342</b>
845 IAC 1-3-3	N	03-46	26 IR 2684		876 IAC 1-4-1	A	03-42	26 IR 3142	
845 IAC 1-4.1-1	A	03-46	26 IR 2684		876 IAC 1-4-2	A	01-427	25 IR 3874	<b>26 IR 789</b>
845 IAC 1-4.1-2	A	03-46	26 IR 2684			A	03-42	26 IR 3142	
845 IAC 1-4.1-4	R	03-46	26 IR 2686		876 IAC 2-16-1	A	02-244	26 IR 2127	<b>26 IR 3342</b>
845 IAC 1-4.1-7	A	03-46	26 IR 2685		876 IAC 3-2-4	A	02-148	25 IR 4213	<b>26 IR 1106</b>
845 IAC 1-5-1	A	03-46	26 IR 2685		876 IAC 3-2-5	A	02-148	25 IR 4213	<b>26 IR 1107</b>
845 IAC 1-5-2	R	01-363	25 IR 3456	*I (26 IR 1104)	876 IAC 3-2-7	A	02-148	25 IR 4213	<b>26 IR 1107</b>
845 IAC 1-5-2.1	N	01-363	25 IR 3455	*I (26 IR 1104)	876 IAC 3-3-3	A	03-23	26 IR 3415	
					876 IAC 3-3-4	A	03-23	26 IR 3416	
845 IAC 1-5-3	A	03-46	26 IR 2685		876 IAC 3-3-5	A	03-23	26 IR 3417	
845 IAC 1-6-8	R	03-47	26 IR 2686		876 IAC 3-3-6				*ERR (26 IR 1109)
845 IAC 1-6-9	N	03-47	26 IR 2686		876 IAC 3-3-21				*ERR (26 IR 1109)
TITLE 848 INDIANA STATE BOARD OF NURSING									
848 IAC 1-1-2.1	A	02-247	26 IR 2124		876 IAC 3-3-22	A	02-148	25 IR 4214	<b>26 IR 1107</b>
848 IAC 1-1-6	A	02-247	26 IR 2124		876 IAC 3-4-8	A	03-23	26 IR 3418	
848 IAC 1-1-7	A	02-247	26 IR 2125		876 IAC 3-5-1	A	02-245	26 IR 3139	
848 IAC 1-1-14	A	02-183	26 IR 2123		876 IAC 3-5-1.5	A	02-245	26 IR 3140	
848 IAC 6	N	02-183	26 IR 2121		876 IAC 3-5-6.1	N	03-23	26 IR 3418	
TITLE 852 INDIANA OPTOMETRY BOARD									
852 IAC 1-1.1-4	A	02-131	25 IR 3869	<b>26 IR 1944</b>	876 IAC 3-5-7	A	02-245	26 IR 3141	
852 IAC 1-13-1	A	02-132	25 IR 3869	<b>26 IR 2373</b>	876 IAC 3-6-2	A	02-246	26 IR 1728	<b>26 IR 3043</b>
					876 IAC 3-6-3	A	02-246	26 IR 1729	<b>26 IR 3044</b>
					876 IAC 3-6-4	A	02-245	26 IR 3141	
					876 IAC 3-6-9	A	02-148	25 IR 4214	<b>26 IR 1108</b>
					876 IAC 4-1-3	A	01-427	25 IR 3876	<b>26 IR 791</b>
					876 IAC 4-2-2	A	01-369	26 IR 180	<b>26 IR 788</b>
					876 IAC 4-2-3	A	01-369	26 IR 180	<b>26 IR 788</b>
					876 IAC 4-2-3.5	N	02-300	26 IR 1730	<b>26 IR 3342</b>
					876 IAC 4-2-9	A	01-369	26 IR 180	<b>26 IR 788</b>
TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD									
					880 IAC 1-2	R	02-269	26 IR 879	*AWR (26 IR 2377)
						R	03-53	26 IR 3422	
					880 IAC 1-2.1	N	02-269	26 IR 876	*AWR (26 IR 2377)
						N	03-53	26 IR 3419	





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<b>General provisions</b>					
Ambient air quality standards		Work practice standards		Paint in poor condition	
326 IAC 1-3-4	26 IR 3376	326 IAC 20-25-4	26 IR 94	326 IAC 23-1-52	26 IR 2411
Definitions			<b>26 IR 2609</b>	Paint-lead hazard	
Reconstruction		Leather finishing operations		326 IAC 23-1-52.5	26 IR 2411
326 IAC 1-2-65	26 IR 1997	326 IAC 20-53	26 IR 3091	Play area	
Title I conditions		Manufacturing of nutritional yeast		326 IAC 23-1-54.5	26 IR 2412
326 IAC 1-2-82.5	24 IR 3107	326 IAC 20-51	26 IR 3090	Project designer	
Volatile organic compound or VOC		Rubber tire manufacturing		326 IAC 23-1-55.5	26 IR 2412
326 IAC 1-2-90	26 IR 1998	326 IAC 20-55	26 IR 3091	Renovation	
Malfunctions		Petroleum refineries; catalytic cracking units, catalytic reforming units, and sulfur recovery units		326 IAC 23-1-58.5	26 IR 2412
Applicability		326 IAC 20-50	26 IR 3090	Residential building	
326 IAC 1-6-1	24 IR 2752	Wet-formed fiberglass mat production		326 IAC 23-1-58.7	26 IR 2412
Conditions under which malfunction not considered violation		326 IAC 20-52	26 IR 3091	Risk assessor	
326 IAC 1-6-4	24 IR 2753	<b>Lead-based paint</b>		326 IAC 23-1-60.1	26 IR 2412
Excessive malfunctions; department actions		Definitions		Room	
326 IAC 1-6-5	24 IR 2753	Approved initial training course and approved refresher training course		326 IAC 23-1-60.5	26 IR 2412
Malfunction emission reduction program		326 IAC 23-1-4	26 IR 2407	Soil-lead hazard	
326 IAC 1-6-6	24 IR 2754	Arithmetic mean		326 IAC 23-1-60.6	26 IR 2413
Preventive maintenance plans		326 IAC 23-1-5.5	26 IR 2408	Soil sample	
326 IAC 1-6-3	24 IR 2753	Approved training course provider		326 IAC 23-1-61.5	26 IR 2413
Records; notice of malfunction		326 IAC 23-1-5	26 IR 2408	Supervisor	
326 IAC 1-6-2	24 IR 2752	Chewable surface		326 IAC 23-1-62.5	26 IR 2413
Nonattainment/attainment/unclassifiable area designations for sulfur dioxide; total suspended particulates, carbon monoxide; ozone; and nitrogen dioxides		326 IAC 23-1-6.5	26 IR 2408	Surface-by-surface investigation	
Designations		Clearance examination		326 IAC 23-1-62.6	26 IR 2413
326 IAC 1-4-1	25 IR 3240	326 IAC 23-1-7.5	26 IR 2408	Target housing	
	<b>26 IR 1077</b>	Clearance examiner		326 IAC 23-1-63	26 IR 2413
	26 IR 3092	326 IAC 23-1-7.6	26 IR 2408	Third-party examination	
Provisions applicable throughout Title 326		Common area group		326 IAC 23-1-64	26 IR 2414
References		326 IAC 23-1-9	26 IR 2408	Weighted arithmetic mean	
Code of Federal Regulations		Completion date		326 IAC 23-1-69.5	26 IR 2414
326 IAC 1-1-3	26 IR 1997	326 IAC 23-1-10	26 IR 2409	Window trough or window well	
Compilation of air pollution emission factors AP-42 and supplement		Component or building component		326 IAC 23-1-69.6	26 IR 2414
326 IAC 1-1-3.5	26 IR 1997	326 IAC 23-1-11	26 IR 2409	Wipe sample	
		Concentration		326 IAC 23-1-69.7	26 IR 2414
<b>Hazardous air pollutants</b>		326 IAC 23-1-11.5	26 IR 2409	Worker	
Boat manufacturing; emission standards for hazardous air pollutants		Contractor		326 IAC 23-1-71	26 IR 2414
Applicability; incorporation by reference of federal standards		326 IAC 23-1-12.5	26 IR 2409	Licensing	
326 IAC 20-48	26 IR 95	Deteriorated paint		Applicability	
	<b>26 IR 2610</b>	326 IAC 23-1-17	26 IR 2409	326 IAC 23-2-1	26 IR 2414
Cellulose products manufacturing		Dripline		Application	
326 IAC 20-54	26 IR 3091	326 IAC 23-1-21	26 IR 2410	326 IAC 23-2-4	26 IR 2416
Chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills		Dust-lead hazard		Compliance requirements for lead-based paint activities contractors	
326 IAC 20-49	26 IR 3090	326 IAC 23-1-21.5	26 IR 2410	326 IAC 23-2-6	26 IR 2419
Emissions from reinforced plastics composites fabricating emission units		Environmental intervention blood lead level or EIBLL		Duplicate lead-based paint program licenses	
Applicability		326 IAC 23-1-26.5	26 IR 2410	326 IAC 23-2-9	26 IR 2422
326 IAC 20-25-1	26 IR 92	Facility		Fees	
	<b>26 IR 2607</b>	326 IAC 23-1-27	26 IR 2410	326 IAC 23-2-8	26 IR 2421
Emission standards		Friction surface		Lead-based paint license reciprocity	
326 IAC 20-25-3	26 IR 92	326 IAC 23-1-27.5	26 IR 2410	326 IAC 23-2-6.5	26 IR 2419
	<b>26 IR 2607</b>	Hazardous waste		Lead-based paint license revocation; denial	
Reporting requirements		326 IAC 23-1-31	26 IR 2099	326 IAC 23-2-7	26 IR 2420
326 IAC 20-25-7	26 IR 95	Impact surface		Licensing; qualification	
	<b>26 IR 2610</b>	326 IAC 23-1-32.1	26 IR 2410	326 IAC 23-2-1	26 IR 2414
Testing requirements		Inspector		Qualifications	
326 IAC 20-25-5	26 IR 94	326 IAC 23-1-32.2	26 IR 2411	326 IAC 23-2-3	26 IR 2415
	<b>26 IR 2610</b>	Interim controls		Renewal of lead-based paint license	
		326 IAC 23-1-34	26 IR 2411	326 IAC 23-2-5	26 IR 2418
		Interior window sill		Training courses and instructors	
		326 IAC 23-1-34.5	26 IR 2411	Applicability	
		Lead abated waste		326 IAC 23-3-1	26 IR 2422
		326 IAC 23-1-34.8	26 IR 2411	Application	
		Loading		326 IAC 23-3-12	26 IR 2428
		326 IAC 23-1-48.5	26 IR 2411	Course notification and record submittal requirements	
				326 IAC 23-3-11	26 IR 2428

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Examination requirements		Emission testing		Applicability	
326 IAC 23-3-5	26 IR 2426	326 IAC 3-6-3	26 IR 2022	326 IAC 6-1-1	25 IR 710
Expiration of course approval; reapproval		Specific testing procedures; particulate matter;		Lake County PM <sub>10</sub> coke battery emission re-	
326 IAC 23-3-7	26 IR 2426	sulfur dioxide; nitrogen oxides; volatile or-		quirements	
Initial and refresher training course and rules		organic compounds		326 IAC 6-1-10.2	26 IR 1994
awareness course application for approval		326 IAC 3-6-5	26 IR 2023	Lake County PM <sub>10</sub> emission requirements	
326 IAC 23-3-2	26 IR 2422	<b>Motor vehicle emission and fuel standards</b>		326 IAC 6-1-10.1	26 IR 1970
Initial training course requirements		Control of gasoline Reid vapor pressure		Wayne County	
326 IAC 23-3-3	26 IR 2423	Applicability		326 IAC 6-1-14	26 IR 98
Representation of training course approval		326 IAC 13-3-1	25 IR 3242		<b>26 IR 2318</b>
326 IAC 23-3-13	26 IR 2428		<b>26 IR 1079</b>	<b>Permit review rules</b>	
Work practices for abatement activities		Motor vehicle inspection and maintenance re-		Emission offset	
Abatement procedures for all projects		quirements		Definitions	
326 IAC 23-4-5	26 IR 2431	Definitions		326 IAC 2-3-1	26 IR 2000
Analysis of samples		326 IAC 13-1.1-1	26 IR 2062	Emission reporting	
326 IAC 23-4-12	26 IR 2435	Facility and testing requirements		Applicability	
Applicability		326 IAC 13-1.1-14	26 IR 2065	326 IAC 2-6-1	24 IR 3699
326 IAC 23-4-1	26 IR 2429	Facility quality assurance program		Compliance schedule	
Inspections		326 IAC 13-1.1-16	26 IR 2066	326 IAC 2-6-3	24 IR 3702
326 IAC 23-4-2	26 IR 2429	Test reports; repair forms		Definitions	
Lead abatement notification procedures		326 IAC 13-1.1-13	26 IR 2064	326 IAC 2-6-2	24 IR 3700
326 IAC 23-4-6	26 IR 2432	Testing procedures and standards		Requirements	
Lead abatement procedures; interior		326 IAC 13-1.1-8	26 IR 2063	326 IAC 2-6-4	24 IR 3703
326 IAC 23-4-7	26 IR 2434	Waivers and compliance through diagnostic		Violations	
Lead-based paint abatement disposal procedures		inspection		326 IAC 2-6-5	24 IR 3705
326 IAC 23-4-11	26 IR 2435	326 IAC 13-1.1-10	26 IR 2063	Federally enforceable state operating permit	
Lead hazard screen		<b>Nitrogen oxide rules</b>		program	
326 IAC 23-4-3	26 IR 2429	Nitrogen oxides budget trading program		Permit application	
Post-abatement clearance procedures		Applicability		326 IAC 2-8-3	26 IR 2008
326 IAC 23-4-9	26 IR 2434	326 IAC 10-4-1	26 IR 1134	Part 70 permit program	
Record keeping		Compliance supplement pool		Permit issuance, renewal, and revisions	
326 IAC 23-4-13	26 IR 2435	326 IAC 10-4-15	26 IR 1156	326 IAC 2-7-8	26 IR 2006
Risk assessment		Definitions		Permit requirement	
326 IAC 23-4-4	26 IR 2430	326 IAC 10-4-2	26 IR 1136	326 IAC 2-7-3	26 IR 2006
Work practices for nonabatement activities		Individual opt-ins		Permit review by the U.S. EPA	
Applicability		326 IAC 10-4-13	26 IR 1152	326 IAC 2-7-18	26 IR 2007
326 IAC 23-5	26 IR 2436	NO <sub>x</sub> allowance allocations		Prevention of significant deterioration	
<b>Lead rules</b>		326 IAC 10-4-9	26 IR 1142	Ambient air ceilings	
Lead emissions limitations		NO <sub>x</sub> allowance banking		326 IAC 2-2-16	26 IR 1999
Compliance		326 IAC 10-4-14	26 IR 1155	Area designation and redesignation	
326 IAC 15-1-4	26 IR 2083	NO <sub>x</sub> allowance tracking system		326 IAC 2-2-13	26 IR 1998
Source-specific provisions		326 IAC 10-4-10	26 IR 1148	Source specific operating agreement program	
326 IAC 15-1-2	26 IR 2080	Nitrogen oxides control in Clark and Floyd Counties		Coal mines and coal preparation plants	
<b>Monitoring requirements</b>		Compliance procedures		326 IAC 2-9-10	26 IR 2013
Continuous monitoring of emissions		326 IAC 10-1-5	26 IR 2059	Crushed stone processing plants	
Minimum performance and operating specifica-		Definitions		326 IAC 2-9-8	26 IR 2010
tion		326 IAC 10-1-2	26 IR 2056	External combustion sources	
326 IAC 3-5-2	26 IR 2017	Emissions limits		326 IAC 2-9-13	26 IR 2014
Monitor system certification		326 IAC 10-1-4	26 IR 2057	Ready-mix concrete batch plants	
326 IAC 3-5-3	26 IR 2019	Emissions monitoring		326 IAC 2-9-9	26 IR 2011
Quality assurance requirements		326 IAC 10-1-6	26 IR 2059	Sand and gravel plants	
326 IAC 3-5-5	26 IR 2020	Nitrogen oxides reduction program for specific		326 IAC 2-9-7	26 IR 2009
Standard operating procedures		source categories		<b>State environmental policy</b>	
326 IAC 3-5-4	26 IR 2019	Applicability		General conformity	
Fuel sampling and analysis procedures		326 IAC 10-3-1	26 IR 1134	Applicability; incorporation by reference of	
Coal sampling and analysis methods		<b>Opacity regulations</b>		federal standards	
326 IAC 3-7-2	26 IR 2024	Limitations		326 IAC 16-3-1	26 IR 2084
Fuel oil sampling; analysis methods		Compliance determination		<b>Stratospheric ozone protection</b>	
326 IAC 3-7-4	26 IR 2025	326 IAC 5-1-4	26 IR 2026	General provisions	
General provisions		Opacity limitations		Incorporation of federal regulation	
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326 IAC 3-4-3	26 IR 2016	Violations		<b>Sulfur dioxide rules</b>	
Definitions		326 IAC 5-1-5	26 IR 2026	Compliance	
326 IAC 3-4-1	26 IR 2016	<b>Particulate rules</b>		Methods to determine compliance; reporting	
Source sampling procedure		Nonattainment area limitations		requirements	
Applicability; test procedures				326 IAC 7-2-1	26 IR 2028
326 IAC 3-6-1	26 IR 2022				

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Emission limitations and requirements by county	Definitions		<b>ANIMAL HEALTH, INDIANA STATE BOARD</b>
Warrick County	326 IAC 8-9-3	24 IR 2760	<b>OF</b>
326 IAC 7-4-10		26 IR 2037	<b>Cattle, goats, and other tuberculosis of</b>
<b>Volatile organic compounds</b>	Exemptions		<b>brucellosis carrying animals</b>
Automobile refinishing	326 IAC 8-9-2	24 IR 2760	Chronic wasting disease
Test procedures		26 IR 2036	Certified herd status
326 IAC 8-10-7			345 IAC 2-7-4
General provisions	Record keeping and reporting requirements		25 IR 2000
Compliance methods	326 IAC 8-9-6	24 IR 2765	25 IR 2777
326 IAC 8-1-2		26 IR 2042	<b>26 IR 348</b>
<b>26 IR 1073</b>	Standards		CWD positive, CWD suspect, and CWD ex-
Testing procedures	326 IAC 8-9-4	24 IR 2761	posed animals
326 IAC 8-1-4		26 IR 2038	345 IAC 2-7-5
Petroleum sources	Testing and procedures		25 IR 2001
Gasoline dispensing facilities	326 IAC 8-9-5	24 IR 2763	25 IR 2778
326 IAC 8-4-6		26 IR 2040	<b>26 IR 349</b>
Leaks from transports and vapor collection systems; records	Wood furniture coatings		Definitions
326 IAC 8-4-9	Applicability		345 IAC 2-7-1
Shipbuilding or ship repair operations in Clark, Floyd, Lake, and Porter Counties	326 IAC 8-11-1	24 IR 2767	25 IR 1998
Compliance requirements	Compliance procedures and monitoring		25 IR 2775
326 IAC 8-12-5	326 IAC 8-11-6	24 IR 2771	<b>26 IR 346</b>
26 IR 2052		26 IR 2046	Herd registration
Definitions	Continuous compliance plan		345 IAC 2-7-3
326 IAC 8-12-3	326 IAC 8-11-5	24 IR 2771	25 IR 1999
Record keeping, notification, and reporting requirements	Definitions		25 IR 2776
326 IAC 8-12-7	326 IAC 8-11-2	24 IR 2767	<b>26 IR 347</b>
26 IR 2054		26 IR 2044	Herd registration
Test methods and procedures	Emission limits		345 IAC 2-7-3
326 IAC 8-12-6	326 IAC 8-11-3	24 IR 2769	Interstate movement
26 IR 2053	Provisions for sources electing to use emissions averaging		345 IAC 2-7-2.4
Sinter plants	326 IAC 8-11-10	24 IR 2777	26 IR 3106
Test procedures	Record keeping requirements		Intrastate movement
326 IAC 8-13-5	326 IAC 8-11-8	24 IR 2775	345 IAC 2-7-2.5
26 IR 2054			26 IR 3107
Specific VOC reduction requirements for Lake, Porter, Clark, and Floyd Counties	Reporting requirements		<b>Dairy products</b>
Applicability	326 IAC 8-11-9	24 IR 2776	Drug residues and other adulterations
326 IAC 8-7-2	Test procedures		Drug residues
24 IR 2755	326 IAC 8-11-7	24 IR 2775	345 IAC 8-4-1
Certification, record keeping, and reporting requirements for coating facilities	Work practice standards		25 IR 2771
326 IAC 8-7-6	326 IAC 8-11-4	24 IR 2770	<b>26 IR 342</b>
24 IR 2758			Production, handling, processing, packaging, and distribution of milk and milk products
Compliance methods	<b>ALCOHOL AND TOBACCO COMMISSION</b>		Bulk milk collection; pick-up tankers
326 IAC 8-7-4	<b>Beer kegs; tracking</b>		345 IAC 8-2-4
24 IR 2756	905 IAC 1-45	26 IR 2128	25 IR 2767
Compliance plan	<b>Clubs</b>		<b>26 IR 338</b>
326 IAC 8-7-5	Requirement to publicly post operating dates		Definitions
24 IR 2758	905 IAC 1-13-6	26 IR 2689	345 IAC 8-2-1.1
Control system monitoring, record keeping, and reporting	Service to nonmembers		25 IR 2758
326 IAC 8-7-10	905 IAC 1-13-3	26 IR 2689	<b>26 IR 329</b>
24 IR 2759	<b>Temporary Beer/Wine Permit Fees</b>		"General requirement; permits" defined
Control system operation, maintenance, and testing	Permits		345 IAC 8-2-1.9
326 IAC 8-7-9	905 IAC 1-11.1-1	26 IR 2688	25 IR 2761
24 IR 2758	Qualification requirements		<b>26 IR 332</b>
Definitions	905 IAC 1-11.1-2	26 IR 2688	Manufactured grade dairy farms; construction; operation; sanitation
326 IAC 8-7-1	<b>Trade practices; permissible activity between primary sources of supply, wholesalers, and retailers</b>		345 IAC 8-2-3
24 IR 2754	Samples		25 IR 2764
Emission limits	Consumer product sampling		<b>26 IR 335</b>
326 IAC 8-7-3	905 IAC 1-5.2-9.2	26 IR 2687	Manufactured grade milk products plants; construction; operation; sanitation
24 IR 2755	Wholesale to retail		345 IAC 8-2-2
General record keeping and reports	905 IAC 1-5.2-9.1	26 IR 2687	25 IR 2762
326 IAC 8-7-8			<b>26 IR 333</b>
24 IR 2758	<b>AMBULANCES; AMBULANCE SERVICE PROVIDERS</b>		"Milk products" defined
Test methods and procedures	(See <b>EMERGENCY MEDICAL SERVICES COMMISSION, INDIANA</b> )		345 IAC 8-2-1.5
326 IAC 8-7-7			25 IR 2760
24 IR 2758			<b>26 IR 331</b>
26 IR 2036			Milk transportation
Surface coating emission limitations			345 IAC 8-2-3.5
Miscellaneous metal coating operation			25 IR 2766
326 IAC 8-2-9			<b>26 IR 337</b>
25 IR 3241			"Pasteurization"; "ultra pasteurization"; "aseptic processing" defined
<b>26 IR 1078</b>			345 IAC 8-2-1.7
Volatile organic liquid storage vessels			25 IR 2760
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326 IAC 8-9-1			Standards for milk and milk products and Grade A standards
24 IR 2760			Grade A milk plant standards
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<p><b>ATTORNEY GENERAL'S OPINIONS</b> (See Cumulative Table of Executive Orders and Attorney General's Opinions at 26 IR 2553)</p>	<p>Removal of telephone numbers from the telephone privacy list Obtaining changed, transferred, and disconnected telephone numbers 11 IAC 2-5-5 26 IR 1598</p>	<p>Physical plant 210 IAC 6-3-2 25 IR 4153 <b>26 IR 1065</b></p>
<p><b>BARBER EXAMINERS, BOARD OF</b> <b>Barber schools and shops</b> Fees and examinations 816 IAC 1-3-1 26 IR 1725</p>	<p><b>Telephone solicitations</b> Definitions Existing debt or contract 11 IAC 1-1-3.5 26 IR 420 <b>26 IR 2300</b></p>	<p>Applicability 210 IAC 6-1-1 25 IR 4152 <b>26 IR 1064</b></p>
<p><b>BOXING COMMISSION, STATE</b> Boxing and other ring exhibitions License fees Two year license validation 808 IAC 2-6-1 25 IR 4210 <b>26 IR 1104</b></p>	<p><b>CONTROLLED SUBSTANCES</b> (See <b>PHARMACY, INDIANA BOARD OF</b>)</p>	<p>Definitions Department 210 IAC 6-2-3 25 IR 4152 <b>26 IR 1064</b></p>
<p><b>BUILDING AND CONSTRUCTION</b> (See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b>)</p>	<p><b>CORRECTION, DEPARTMENT OF</b> <b>General provisions</b> Collection, maintenance, and release of offender and juvenile records Access to information 210 IAC 1-6-6 25 IR 1203 <b>26 IR 820</b></p>	<p>Dispositional program 210 IAC 6-2-4 25 IR 4152 <b>26 IR 1064</b></p>
<p><b>BUILDING CODE</b> (See <b>FIRE PREVENTION AND BUILDING SAFETY COMMISSION</b>)</p>	<p>Challenge of information by offender; investigation; change of record 210 IAC 1-6-5 25 IR 1202 <b>26 IR 819</b></p>	<p>Existing facility 210 IAC 6-2-5 25 IR 4152 <b>26 IR 1064</b></p>
<p><b>CEMETERIES AND BURIAL GROUNDS</b> (See <b>NATURAL RESOURCES COMMISSION</b>)</p>	<p>Classification of information 210 IAC 1-6-2 25 IR 1201 <b>26 IR 818</b></p>	<p>Standard 210 IAC 6-2-13 25 IR 4152 <b>26 IR 1064</b></p>
<p><b>CHARITY GAMING</b> (See <b>REVENUE, DEPARTMENT OF STATE</b>)</p>	<p>Definitions 210 IAC 1-6-1 25 IR 1200 <b>26 IR 817</b></p>	<p><b>Release authority for juveniles</b> Release procedure Community supervision or discharge; consideration, reviews, denials, conditions statement 210 IAC 5-1-3 25 IR 1207 <b>26 IR 824</b></p>
<p><b>CHILD CARE CENTERS</b> (See <b>FAMILY AND CHILDREN, DIVISION OF—Child welfare services</b>)</p>	<p>Inspection rights of offenders and juveniles 210 IAC 1-6-4 25 IR 1201 <b>26 IR 818</b></p>	<p>Community supervision revocation 210 IAC 5-1-4 25 IR 1210 <b>26 IR 827</b></p>
<p><b>COAL MINING</b> (See <b>NATURAL RESOURCES COMMISSION—Coal mining and reclamation operations</b>)</p>	<p>Research purposes; request for access to information 210 IAC 1-6-7 25 IR 1204 <b>26 IR 821</b></p>	<p>Definitions; administrative procedures 210 IAC 5-1-1 25 IR 1206 <b>26 IR 823</b></p>
<p><b>COLLEGE WORK-STUDY PROGRAMS</b> (See <b>STATE STUDENT ASSISTANCE COMMISSION</b>)</p>	<p>Offender tort claim process 210 IAC 1-10 25 IR 1204 <b>26 IR 821</b></p>	<p>Release recommendation by the facility; committee criteria for granting release 210 IAC 5-1-2 25 IR 1207 <b>26 IR 824</b></p>
<p><b>COMMUNITY RESIDENTIAL FACILITIES COUNCIL</b> <b>Supported living services and supports</b> 431 IAC 7 26 IR 2107</p>	<p><b>Juvenile detention facilities</b> Administration and management Compliance 210 IAC 6-3-11 25 IR 4155 <b>26 IR 1068</b></p>	<p><b>COSMETOLOGY EXAMINERS, STATE BOARD OF</b> <b>Continuing Education</b> Approved cosmetology educators Certificate of course completion 820 IAC 6-1-3 26 IR 3137</p>
<p><b>CONFINED FEEDING PROGRAM</b> (See <b>WATER POLLUTION CONTROL BOARD</b>)</p>	<p>Compliance with mandatory and physical plant standards 210 IAC 6-3-10 25 IR 4155 <b>26 IR 1068</b></p>	<p><b>Cosmetology Schools</b> General Requirements "Graduation" defined 820 IAC 4-1-11 26 IR 3137</p>
<p><b>CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL</b> <b>Telephone numbers not to be solicited; list</b> Access to the telephone privacy list Fee for obtaining telephone privacy list 11 IAC 2-6-1 25 IR 3213 <b>26 IR 6</b></p>	<p>Construction of juvenile detention facilities 210 IAC 6-3-9 25 IR 4155 <b>26 IR 1067</b></p>	<p><b>Distance learning continuing education</b> 820 IAC 6-3 26 IR 3137</p>
<p>Information contained in published telephone privacy list 11 IAC 2-6-5 25 IR 3213 <b>26 IR 6</b></p>	<p>Facility services 210 IAC 6-3-4 25 IR 4154 <b>26 IR 1066</b></p>	<p><b>DAIRY PRODUCTS</b> (See <b>ANIMAL HEALTH, INDIANA STATE BOARD OF</b>)</p>
<p>Unauthorized duplication or dissemination of telephone privacy list prohibited 11 IAC 2-6-6 25 IR 3213 <b>26 IR 6</b></p>	<p>General provisions 210 IAC 6-3-1 25 IR 4152 <b>26 IR 1064</b></p>	<p><b>DEAF AND HARD OF HEARING</b> <b>Interpreter standards</b> Certification requirements 460 IAC 2-3-3 25 IR 2287 <b>26 IR 748</b></p>
	<p>Institutional operations 210 IAC 6-3-3 25 IR 4153 <b>26 IR 1065</b></p>	<p>Definitions and acronyms 460 IAC 2-3-2 25 IR 2286 <b>26 IR 747</b></p>
	<p>Juvenile services 210 IAC 6-3-5 25 IR 4155 <b>26 IR 1067</b></p>	<p>Purpose; exclusion 460 IAC 2-3-1 25 IR 2286 <b>26 IR 747</b></p>

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828 IAC 0.5-2-6 25 IR 3447  
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**26 IR 376**

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828 IAC 1-5-2.5 25 IR 3449  
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828 IAC 1-5-2 25 IR 3448  
**26 IR 372**

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828 IAC 1-5-1 25 IR 3448  
**26 IR 371**

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828 IAC 1-5-1.5 25 IR 3448  
**26 IR 371**

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828 IAC 1-2-7 26 IR 3410

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828 IAC 1-2-3 26 IR 3409

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828 IAC 1-2-12 26 IR 3410

National board examination; dental and dental  
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828 IAC 1-2-6 26 IR 3410

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828 IAC 1-6-1 25 IR 3449  
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828 IAC 1-3-3 25 IR 3452  
**26 IR 375**

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828 IAC 1-3-1.1 25 IR 3450  
**26 IR 373**

Licensure bo practice dental hygiene by endorsement; credentials  
828 IAC 1-3-1.5 25 IR 3451  
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828 IAC 1-7-2 25 IR 3453  
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828 IAC 1-7-1 25 IR 3453  
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828 IAC 1-1-7 26 IR 3409

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828 IAC 1-1-3 26 IR 3408

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828 IAC 1-1-3 26 IR 3408

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828 IAC 1-1-6 26 IR 3409

**DEPARTMENT OF LOCAL GOVERNMENT**

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50 IAC 3.2-2 25 IR 2548  
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50 IAC 15-3-2 25 IR 410  
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50 IAC 15-3-1 25 IR 410  
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50 IAC 15-1-1.5 26 IR 1516

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**26 IR 1521**

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**26 IR 1520**

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50 IAC 15-5-1 25 IR 413  
**26 IR 1519**

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**26 IR 1519**

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50 IAC 15-5-8 25 IR 415  
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50 IAC 18-2 26 IR 1117

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50 IAC 19-2 26 IR 2397

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50 IAC 2.3-1-1 25 IR 835  
**26 IR 6**

26 IR 86  
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50 IAC 2.3-1-2 25 IR 1200  
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**DISABILITY, AGING, AND REHABILITATIVE SERVICES, DIVISION OF**

**Assisted living Medicaid waiver services**

460 IAC 8 26 IR 3392

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460 IAC 1-8 25 IR 2557  
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460 IAC 2-3-3 25 IR 2287

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460 IAC 2-3-1 25 IR 2286

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460 IAC 7-2 26 IR 525  
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460 IAC 7-3	26 IR 526	460 IAC 6-3-29.5	26 IR 2666	460 IAC 6-28	25 IR 3865
	26 IR 1248	Individual community living budget or ICLB			<b>26 IR 783</b>
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460 IAC 7-1	26 IR 525	460 IAC 6-3-38.6	26 IR 2667	Physical environment	
	26 IR 1248	PRN		460 IAC 6-29	25 IR 3865
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460 IAC 7-5	26 IR 528	460 IAC 6-3-52.1	26 IR 2667	460 IAC 6-29-9	26 IR 2678
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	<b>26 IR 2873</b>	460 IAC 6-3-56	26 IR 2667	460 IAC 6-29-4	26 IR 2678
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460 IAC 5-1-13	26 IR 524	Facility-based sheltered employment services		460 IAC 6-14	25 IR 3853
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460 IAC 1-3.3	26 IR 2111		<b>26 IR 779</b>	Training	
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460 IAC 6-2	25 IR 3832		<b>26 IR 779</b>	460 IAC 6-5	25 IR 3838
	<b>26 IR 749</b>	Financial status of providers			<b>26 IR 756</b>
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460 IAC 6-6	25 IR 3843		<b>26 IR 770</b>	460 IAC 6-5-32	26 IR 2669
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460 IAC 6-18	25 IR 3857	460 IAC 6-10-8	26 IR 2674	Independence assistance services provider qualifications	
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460 IAC 6-19	25 IR 3858		<b>26 IR 780</b>	460 IAC 6-5-36	26 IR 2670
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460 IAC 6-19-6	26 IR 2676	Insurance		Protection of an individual	
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460 IAC 6-20	25 IR 3860		<b>26 IR 771</b>		<b>26 IR 765</b>
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460 IAC 6-3-2.1	26 IR 2664	460 IAC 6-17-4	26 IR 2676	460 IAC 6-1	25 IR 3832
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<b>Medicaid services</b>				<b>Elevators, escalators, manlifts, and hoists; safety code</b> Administration Accident reports and investigations 675 IAC 21-1-7	25 IR 2033 <b>26 IR 1085</b>
Chiropractic services Chiropractic x-ray services 405 IAC 5-12-3	25 IR 2556 <b>26 IR 2861</b>				
Durable medical equipment 405 IAC 5-12-7	<b>26 IR 2862</b>				

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Definitions		Section E3301.2; scope		Section E3805.1, box, conduit body, or fitting; where required	
675 IAC 21-1-10	25 IR 2034	675 IAC 14-4.2-181.1	<b>26 IR 11</b>	675 IAC 14-4.2-192.4	25 IR 1250
Installation of permit; registration, application; fees		Section E3302.2, penetrations of fire-resistance-rated assemblies			<b>26 IR 14</b>
675 IAC 21-1-1	25 IR 2031	675 IAC 14-4.2-182.1	25 IR 1247	Section E3805.3.1, nonmetallic-sheathed cable and nonmetallic boxes	
	<b>26 IR 1083</b>		<b>26 IR 11</b>	675 IAC 14-4.2-192.5	25 IR 1250
Operating permit; display; location		Section E3306.5, Individual conductor insulation			<b>26 IR 14</b>
675 IAC 21-1-3.1	25 IR 2032	675 IAC 14-4.2-185.1	25 IR 1248	Section E3805.3.2, securing to box	
	<b>26 IR 1085</b>		<b>26 IR 11</b>	675 IAC 14-4.2-192.6	25 IR 1250
Signatories; affirmation		Section E3401, general			<b>26 IR 14</b>
675 IAC 21-1-1.5	25 IR 2031	675 IAC 14-4.2-187	25 IR 1248	Section E3806.5, in wall or ceiling	
	<b>26 IR 1084</b>		<b>26 IR 11</b>	675 IAC 14-4.2-192.7	25 IR 1250
Title; availability of rule		Section E3501.6.2, service disconnect location		Section E3806.8.2.1, nails	
675 IAC 21-1-9	25 IR 2033	675 IAC 14-4.2-187.1	25 IR 1248	675 IAC 14-4.2-192.8	25 IR 1250
	<b>26 IR 1086</b>		<b>26 IR 12</b>	Section E3808.8, types of equipment grounding conductors	
Elevator safety code		Section E3503.1, service conductor and grounding electrode conductor sizing		675 IAC 14-4.2-193.1	25 IR 1251
Adoption by reference		675 IAC 14-4.2-187.2	25 IR 1248		<b>26 IR 14</b>
675 IAC 21-3-1	25 IR 2034		<b>26 IR 12</b>	Section E3901.3, indicating	
	<b>26 IR 1087</b>	Section E3504.2.1, above roofs		675 IAC 14-4.2-193.2	25 IR 1251
Amendments to adopted code		675 IAC 14-4.2-187.3	25 IR 1248		<b>26 IR 14</b>
675 IAC 21-3-2	25 IR 2034		<b>26 IR 12</b>	Section E3902.12, outdoor installation	
	<b>26 IR 1087</b>	Section E3505.5, protection of service cables against damage		675 IAC 14-4.2-193.3	25 IR 1251
Manlifts		675 IAC 14-4.2-187.4	25 IR 1248		<b>26 IR 14</b>
Adoption by reference			<b>26 IR 12</b>	Section E3903.11, fixtures in clothes closets	
675 IAC 21-5-1	25 IR 2039	Section E3602.10, branch circuits serving heating loads		675 IAC 14-4.2-193.4	25 IR 1251
	<b>26 IR 1092</b>	675 IAC 14-4.2-190.1	25 IR 1249		<b>26 IR 14</b>
Amendments to adopted standard			<b>26 IR 12</b>	Table E4103.5, overhead conductor clearances	
675 IAC 21-5-3	25 IR 2039	Section E3602.12, branch circuits serving room air conditioners		675 IAC 14-4.2-193.5	25 IR 1251
	<b>26 IR 1092</b>	675 IAC 14-4.2-190.2	25 IR 1249		<b>26 IR 14</b>
Personnel hoists			<b>26 IR 12</b>	Section E4104.1, bonded parts	
Adoption by reference		Section E3602.12.1, where no other loads are supplied		675 IAC 14-4.2-194.1	25 IR 1251
675 IAC 21-4-1	25 IR 2037	675 IAC 14-4.2-190.3	25 IR 1249		<b>26 IR 15</b>
	<b>26 IR 1090</b>		<b>26 IR 12</b>	Section E4106.8.2, other enclosures	
Amendments to adopted standard		Section E3602.12.1, where no other loads are supplied		675 IAC 14-4.2-194.2	25 IR 1251
675 IAC 21-4-2	25 IR 2037	675 IAC 14-4.2-190.3	25 IR 1249		<b>26 IR 15</b>
	<b>26 IR 1090</b>		<b>26 IR 12</b>	Section E4106.9.2, wiring methods	
Platform and stairway chair lifts		Section E3602.12.2, where lighting units or other appliances are also supplied		675 IAC 14-4.2-194.3	25 IR 1251
675 IAC 21-8	25 IR 2040	675 IAC 14-4.2-190.4	25 IR 1249		<b>26 IR 15</b>
	<b>26 IR 1093</b>		<b>26 IR 12</b>	Section E4106.10, electrically operated pool covers	
<b>Fire and building safety standards</b>		Section E3703.3 protection from damage		675 IAC 14-4.2-194.4	25 IR 1251
NFPA 13; installation of sprinkler systems		675 IAC 14-4.2-190.5	25 IR 1249		<b>26 IR 15</b>
675 IAC 13-1-8	25 IR 2561		<b>26 IR 13</b>	Section E4106.12.2, permanently wired radiant heaters	
	<b>26 IR 1095</b>	Section E3801.4.5, receptacle outlet location		675 IAC 14-4.2-194.5	25 IR 1252
NFPA 20		675 IAC 14-4.2-191.1	25 IR 1249		<b>26 IR 15</b>
675 IAC 13-1-10	25 IR 2564		<b>26 IR 13</b>	Section E4201.2, definitions	
	<b>26 IR 1098</b>	Section E3801.6, bathroom		675 IAC 14-4.2-194.6	25 IR 1252
<b>Fire code</b>		675 IAC 14-4.2-191.2	25 IR 1249		<b>26 IR 15</b>
Indiana fire code, 1998 edition		Section E3801.9, basements and garages		Section E4201.3, spread of fire or products of combustion	
NFPA 58; standard for the storage and handling of liquefied petroleum gases		675 IAC 14-4.2-191.3	25 IR 1249	675 IAC 14-4.2-194.7	25 IR 1252
675 IAC 22-2.2-14	25 IR 2569		<b>26 IR 13</b>		<b>26 IR 15</b>
	<b>26 IR 1552</b>	Section E3802, ground-fault and arc-fault circuit-interrupter protection		<b>Swimming pool code</b>	
Indiana fire code, 2003 edition		675 IAC 14-4.2-192.1	25 IR 1250	Public spas	
675 IAC 22-2.3	25 IR 3381		<b>26 IR 13</b>	Circulation systems	
	<b>26 IR 2968</b>	Section E3802.8, exempt receptacles		675 IAC 20-3-7	25 IR 2568
<b>Fuel gas code</b>		675 IAC 14-4.2-192.2	25 IR 1250		<b>26 IR 1103</b>
Indiana fuel gas code, 2003 edition			<b>26 IR 13</b>	Inlets and outlets	
675 IAC 25-1	25 IR 3444	Section E3803.3, additional locations		675 IAC 20-3-6	25 IR 2568
	<b>26 IR 3032</b>	675 IAC 14-4.2-192.3	25 IR 1250		<b>26 IR 1103</b>
<b>Mechanical code</b>			<b>26 IR 14</b>	Mechanical, electrical, and water supply	
Indiana mechanical code, 2003 edition				675 IAC 20-3-5	25 IR 2568
675 IAC 18-1.4	25 IR 3366				<b>26 IR 1102</b>
	<b>26 IR 2952</b>				
<b>One and two family dwelling code</b>					
Indiana residential code					



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Qualifications for licensure	26 IR 540		
840 IAC 1-1-4	<b>26 IR 1943</b>		
<b>HISTORIC PRESERVATION REVIEW BOARD</b>			
(See <b>Natural Resources Commission</b> —Register of Indiana historic sites and historic structures)			
<b>HORSE RACING COMMISSION, INDIANA</b>			
<b>Associations</b>			
Facilities and equipment			
Facilities for patrons and licensees			
71 IAC 4-3-1	<b>26 IR 2381</b>		
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71 IAC 4-2-4	<b>26 IR 2380</b>		
Test barn assistants' expenses			
71 IAC 4-2-5	<b>26 IR 2381</b>		
<b>Definitions</b>			
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71 IAC 1-1-41.5	<b>26 IR 394</b>		
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Proceedings by judges			
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71 IAC 10-2-9	<b>26 IR 2387</b>		
<b>Flat racing</b>			
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Facilities and equipment			
Facilities for patrons and licensees			
71 IAC 4.5-3-1	<b>26 IR 2382</b>		
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Reimbursement			
Stewards' expenses			
71 IAC 4.5-2-4	<b>26 IR 2381</b>		
Test barn assistants' expenses			
71 IAC 4.5-2-5	<b>26 IR 2382</b>		
Claiming races			
Prohibitions			
71 IAC 6.5-1-4	<b>26 IR 55</b>		
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71 IAC 1-1.5-37.5	<b>26 IR 394</b>		
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71 IAC 8.5-10-6	<b>26 IR 58</b>		
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71 IAC 8.5-1-1	<b>26 IR 2385</b>		
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71 IAC 8.5-5-2	<b>26 IR 57</b>		
	<b>26 IR 2386</b>		
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71 IAC 8.5-4-8	<b>26 IR 57</b>		
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Collection procedures			
71 IAC 8.5-3-1	<b>26 IR 2386</b>		
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Jockey agents			
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71 IAC 5.5-5-3	<b>26 IR 55</b>		
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Responsibilities			
71 IAC 5.5-4-4	<b>26 IR 2382</b>		
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71 IAC 3.5-2-9	<b>26 IR 2380</b>		
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71 IAC 7.5-1-4	<b>26 IR 2383</b>		
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71 IAC 7.5-1-14	<b>26 IR 2383</b>		
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71 IAC 7.5-10-1	<b>26 IR 56</b>		
Running of the race			
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71 IAC 7.5-6-1	<b>26 IR 2384</b>		
<b>Human and equine health</b>			
Ban on possession of drugs			
Prohibited practices			
71 IAC 8-6-2	<b>26 IR 2385</b>		
Medication rules			
Medication			
71 IAC 8-1-1	<b>26 IR 2384</b>		
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71 IAC 8-4-1	<b>26 IR 2385</b>		
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Judge's list			
71 IAC 3-2-9	<b>26 IR 2379</b>		
<b>Quarter horse development program</b>			
Indiana bred quarter horse development program			
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71 IAC 14.5-1-3	<b>26 IR 1952</b>		
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71 IAC 7-1-15	<b>26 IR 2383</b>		
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71 IAC 7-1-28	<b>26 IR 2383</b>		
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71 IAC 12-2-19	<b>26 IR 59</b>		
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71 IAC 12-2-18	<b>26 IR 2388</b>		
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71 IAC 12-2-15	<b>26 IR 58</b>		
	<b>26 IR 394</b>		
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71 IAC 12-2-20	<b>26 IR 395</b>		
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71 IAC 13.5-3-3	<b>26 IR 1952</b>		
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(See <b>FAMILY AND SOCIAL SERVICES, OFFICE OF THE SECRETARY OF</b> —Reimbursement for hospice services)			
<b>HOSPITAL CARE FOR THE INDIGENT</b>			
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<b>INDIANA SCORING MODEL</b>			
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<b>INSURANCE, DEPARTMENT OF</b>			
<b>Actuarial opinion and memorandum</b>			
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760 IAC 1-57-10	<b>26 IR 3407</b>		
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760 IAC 1-57-1	<b>26 IR 3398</b>		
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760 IAC 1-57-5	<b>26 IR 3399</b>		
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760 IAC 1-57-6	<b>26 IR 3400</b>		
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760 IAC 1-50-3	<b>25 IR 2582</b>		
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760 IAC 1-50-2	<b>25 IR 2582</b>		
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760 IAC 1-50-13.5	<b>25 IR 2585</b>		
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<b>HMO grievance procedures</b>			
Authority			
760 IAC 1-59-1	<b>26 IR 170</b>		
	<b>26 IR 2326</b>		
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760 IAC 1-59-3	<b>26 IR 171</b>		
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760 IAC 1-59-12	26 IR 175	<b>and related hazardous waste management</b>			
	<b>26 IR 2331</b>	Definitions			
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760 IAC 1-59-9	26 IR 173	329 IAC 3.1-4-1	26 IR 1240		
	<b>26 IR 2330</b>	General provisions			
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	<b>26 IR 2328</b>	Exceptions and additions			
Register		329 IAC 3.1-9-2	26 IR 1241		
760 IAC 1-59-5	26 IR 171	Interim status standards for owners and operators			
	<b>26 IR 2327</b>	Exceptions and additions			
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760 IAC 1-59-14	26 IR 175	Incorporation by reference			
	<b>26 IR 2331</b>	329 IAC 3.1-1-7	26 IR 1240		
Resolution notice		Generators of hazardous waste			
760 IAC 1-59-11	26 IR 174	Exceptions and additions; generator standards			
	<b>26 IR 2330</b>	329 IAC 3.1-7-2	26 IR 1240		
Standards for timely review and resolution		<b>Solid waste land disposal facilities</b>			
760 IAC 1-59-10	26 IR 171	Actions for permit and renewal permit application			
	<b>26 IR 2330</b>	Public process for new solid waste landfill disposal facility permits major permit modifications; and minor permit modifications			
Notice to enrollees		329 IAC 10-12-1	26 IR 443		
760 IAC 1-59-7	26 IR 172	Application procedure for all solid waste land disposal facilities			
	<b>26 IR 2328</b>	Minor modification applications			
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760 IAC 1-59-2	26 IR 170	Permit application for new land disposal facility and lateral expansions			
	<b>26 IR 2326</b>	329 IAC 10-11-2.5	26 IR 441		
Reports		Permit application requirements; general			
760 IAC 1-59-4	26 IR 171	329 IAC 10-11-2.1	26 IR 440		
	<b>26 IR 2327</b>	Renewal permit application			
Toll free telephone number		329 IAC 10-11-5.1	26 IR 443		
760 IAC 1-59-8	26 IR 173	Definitions			
	<b>26 IR 2329</b>	Aquiclude			
<b>Medical malpractice insurance</b>		329 IAC 10-2-11	26 IR 433		
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760 IAC 1-21-2	26 IR 1724	329 IAC 10-2-29.5	26 IR 1653		
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760 IAC 1-21-5	26 IR 1724	329 IAC 10-2-32	26 IR 1653		
Payment into patient's compensation fund; annual surcharge		Contaminant			
760 IAC 1-21-8	26 IR 1724	329 IAC 10-2-41	26 IR 433		
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760 IAC 1-68	26 IR 531	329 IAC 10-2-41.1	26 IR 434		
	<b>26 IR 3035</b>	Electronic submission			
<b>JUVENILE DETENTION FACILITIES</b>		329 IAC 10-2-63.5	26 IR 434		
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<b>JUVENILE RECORDS</b>		329 IAC 10-2-64	26 IR 434		
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<b>LABOR, DEPARTMENT OF</b>		329 IAC 10-2-66.1	26 IR 434		
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Occupational injuries and illnesses; recording and reporting		329 IAC 10-2-66.2	26 IR 434		
610 IAC 4-6	25 IR 874	Erosion and sediment control system			
	<b>26 IR 353</b>	329 IAC 10-2-66.3	26 IR 434		
Recording criteria for cases involving occupational hearing loss		Facility			
610 IAC 4-6-11	26 IR 2464	329 IAC 10-2-69	26 IR 434		
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IOSHA applicable to public sector employers; volunteer fire companies		329 IAC 10-2-72.1	26 IR 1654		
610 IAC 4-2-1	26 IR 2464	Flood plain			
		329 IAC 10-2-74	26 IR 435		
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		Land application unit			
		329 IAC 10-2-100	26 IR 436		
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		329 IAC 10-2-105.3	26 IR 436		
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		329 IAC 10-2-106	26 IR 436		
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		329 IAC 10-2-109	26 IR 436		
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		329 IAC 10-2-111.5	26 IR 436		
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		329 IAC 10-2-121.1	26 IR 437		
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		329 IAC 10-2-135.5	26 IR 1655		
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		329 IAC 10-2-181.5	26 IR 438		
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		329 IAC 10-2-181.6	26 IR 438		
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		329 IAC 10-2-187.5	26 IR 438		
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		329 IAC 10-2-197.1	26 IR 1656		

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329 IAC 10-3-1	26 IR 438		
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329 IAC 10-3-2	26 IR 439		
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329 IAC 10-3-3	26 IR 439		
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329 IAC 10-1-4.5	26 IR 433		
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329 IAC 10-1-4	26 IR 432		
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329 IAC 10-7.2	26 IR 1656		
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329 IAC 10-8.2	26 IR 1657		
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329 IAC 10-17-18	26 IR 457		
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329 IAC 10-17-9	26 IR 456		
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329 IAC 10-17-7	26 IR 454		
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329 IAC 10-17-2	26 IR 453		
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329 IAC 10-17-12	26 IR 457		
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329 IAC 10-22-5	26 IR 494		
Final cover requirements for existing MSWLF units constructed without a composite bottom liner			
329 IAC 10-22-7	26 IR 495		
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329 IAC 10-22-6	26 IR 494		
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329 IAC 10-21-16	26 IR 488		
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329 IAC 10-21-13	26 IR 484		
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Instant game 637		Mistle Dough Doubler		65 IAC 5-12-11	<b>26 IR 48</b>
LSA Document #03-109(E)	<b>26 IR 3052</b>	Instant game 617		Payment options	
Black Jack		LSA Document #02-311(E)	<b>26 IR 804</b>	65 IAC 5-12-5	<b>26 IR 45</b>
Instant game 621		NBA Pacers		Power Play promotion	
LSA Document #02-313(E)	<b>26 IR 807</b>	Instant game 630		65 IAC 5-12-12.5	<b>26 IR 49</b>
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Instant game 654		Nifty 50		65 IAC 5-12-10	<b>26 IR 47</b>
LSA Document #03-147(E)	<b>26 IR 3358</b>	Instant game 653		Procedure for playing	
Deal Me In		LSA Document #03-111(E)	<b>26 IR 3056</b>	65 IAC 5-12-4	<b>26 IR 45</b>
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LSA Document #02-348(E)	<b>26 IR 1577</b>	Instant game 645		65 IAC 5-12-7	<b>26 IR 47</b>
Deuces are Wild		65 IAC 4-319	<b>26 IR 3360</b>	Ticket price	
Instant game 611		Red Hot Doubler		65 IAC 5-12-3	<b>26 IR 45</b>
LSA Document #02-289(E)	<b>26 IR 389</b>	Instant game 648		Max 5	
Double Diamonds		LSA Document #03-49(E)	<b>26 IR 2378</b>	Modification of Max 5 prize structure	
Instant game 619		ROYAL RICHES		65 IAC 5-15-10	<b>26 IR 1946</b>
LSA Document #02-288(E)	<b>26 IR 392</b>	Instant game 638		Termination of Max 5	
Fabulous 4s		LSA Document #03-115(E)	<b>26 IR 3058</b>	65 IAC 5-15-11	<b>26 IR 1946</b>
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LSA Document #03-143(E)	<b>26 IR 3354</b>	Instant game 649		Bingo Nut	
General provisions		LSA Document #03-119(E)	<b>26 IR 3065</b>	Pull-tab game 007	
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65 IAC 4-2-8	<b>26 IR 43</b>	Instant game 640		Casino Wizard	
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65 IAC 4-2-4	<b>26 IR 42</b>	Super Size Cash		LSA Document #03-142(E)	<b>26 IR 3354</b>
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Instant game 626		LSA Document #03-110(E)	<b>26 IR 3054</b>	Pull-tab game 052	
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Instant game 634		LSA Document #02-310(E)	<b>26 IR 803</b>	Pull-tab game 054	
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LSA Document #02-349(E)	<b>26 IR 1578</b>	Winter Spectacular		65 IAC 6-1-1.1	<b>26 IR 51</b>
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65 IAC 4-452	<b>26 IR 1585</b>	65 IAC 5-5-5	<b>26 IR 3057</b>	65 IAC 6-1-2.2	<b>26 IR 51</b>
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**WATER POLLUTION CONTROL BOARD**

**Biosolid, industrial waste product, and pollutant-bearing water; land application**

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